LESSONS FROM THE STATES: RESPONSIBLE PRISON REFORM

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY, AND INVESTIGATIONS

OF THE

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HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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CONTENTS

JULY 15, 2014

LESSONS FROM THE STATES: RESPONSIBLE PRISON REFORM

TUESDAY, JULY 15, 2014

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY, AND INVESTIGATIONS

COMMITTEE ON THE JUDICIARY

Washington, DC.

The Subcommittee met, pursuant to call, at 10:01 a.m., in room 2141, Rayburn House Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Subcommittee) presiding.

Present: Representatives Sensenbrenner, Goodlatte, Coble, Forbes, Chaffetz, Gowdy, Labrador, Scott, Conyers, Bass, and Richmond.

Staff Present: (Majority) Sarah Allen, Counsel; Alicia Church, Clerk; and (Minority) Ron LeGrand, Counsel.

Mr. SENSENBRENNER. Subcommittee will come to order, and, without objection, the Chair will be authorized to declare recesses of the Subcommittee at any time. Hearing none, so ordered. The Chair recognizes himself for 5 minutes for an opening statement.

Since the 1980's, the Federal Bureau of Prisons has experienced a dramatic growth in its prison population. The number of inmates under the BOP's jurisdiction has increased from approximately 25,000 in fiscal 1980 to over 216,000 today. Since 1980, the Federal prison population has increased on average by approximately 5,900 inmates each year.

The increasing number of Federal inmates contributes to overcrowding in the Federal prison system. Overall, the Federal prison system was 36 percent over its capacity in 2013. The problem, however, is particularly acute in high and medium security male facilities which operate at 52 percent and 45 percent, respectively, over rated capacity. The inmate-to-staff ratio has increased from 4.1 inmates per staff member in 2000 to 4.8 inmates per staff member last year.

This overcrowding leads to inmate misconduct and creates safety issues for both inmates and corrections officers. To increase available bed space, wardens have resorted to double-bunking and converting shared recreational space to house inmates, among other things. The overcrowding also affects the availability of rehabilitation programs for inmates, including substance abuse treatment.

There should not be waiting lists for these key programs that help address recidivism.

BOP's budget has similarly grown dramatically in recent years. Today, with an appropriation of more than $6.8 billion, the Federal prison system accounts for 25 percent of the Justice Department's budget. The cost to house each inmate has increased over time, going from $21,000 in fiscal year 2000 to $29,000 in fiscal 2013. This means that the cost of running Federal prisons will continue to increase quite dramatically even if no inmates, no new inmates, are added to the system.

The Federal Government is not alone in facing an overburdened correctional system. The States have struggled with similar issues in recent years. While the number of prison inmates across the country has been slowly decreasing since 2008, as of 2012 there were still over 2 million people incarcerated in prisons or jails nationwide, and the cost of incarceration has increased in the States. In 2012 alone, the States collectively spent more than $51 billion on corrections.

Each of the States faces unique challenges that drive prison costs and overcrowding, but it is commonly accepted that high rates of recidivism greatly contribute to these problems on both the State and Federal levels. A number of States and localities have taken innovative approaches to managing prison growth and recidivism through the Justice Reinvestment Initiative, a program done in conjunction with the Justice Department and several nonprofit partners. Through this initiative, participating States and localities conduct a comprehensive analysis of the jurisdiction's criminal justice data to identify drivers of corrections, populations and costs, and help to adopt appropriate policy changes to address prison growth, recidivism, and cost controls without comprising public safety.

The participating States are at various stages of the process, and broad reform cannot clearly happen overnight. However, a January 2014 report on the Justice Reinvestment Initiative found that the savings from implementing the initiative could save participating States as much as $4.6 billion over 10 years by helping to ensure that fewer inmates endlessly cycle in and out of prison. This is encouraging news.

Today we have before us a distinguished panel of witnesses to share how different States are tackling prison reform responsively and effectively, and hopefully how some of these reforms might be translated into the Federal system, and we are honored to have all of you here today.

It is now my pleasure to recognize for his opening statement the Ranking Member of the Subcommittee, the gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, we have too many people in jails and prisons in America today. The Pew Center on States estimates that for any incarceration rate over 350 locked up today for every 100,000 in population, the crime reduction value begins to diminish because at that point you certainly have all of the dangerous people locked up. Pew's research also tells us any rate above 500 locked up today for every 100,000 population, the rate becomes counterproductive,

meaning that it generates more crime than it stops. That is because unnecessarily locking up people wastes money that could be put to better use, families are disrupted, making the next generation more likely to commit crimes, and too many people are suffering from the collateral consequences of felony convictions, making their legal job prospects dim.

Most countries lock up between 50 and 200 per 100,000, but as a result of emotionally appealing tough-on-crime slogans and sound bites, the United States incarceration rate not only exceeds 500 per 100,000, it leads the world at over 700 per 100,000 in jails and prison today. Research shows over 500 is counterproductive, and we are at 700 per 100,000, and some minority populations are locked up in the thousands.

Furthermore, our correctional institutions fail to correct. More than 4 out of 10 adult American offenders are right back in prison within 3 years of their release. So it has become apparent to many policymakers that the status quo is not sustainable because of the crime policy, but certainly because of the expense. And as you pointed out, Mr. Chairman, we are wasting billions of dollars.

This waste is particularly egregious because we know that alternatives can reduce crime and save money. These alternatives include so-called back-end solutions, appropriately dealing with people who have committed crimes, and front-end solutions, evidence-based prevention and early intervention programs which can avoid crime being committed in the first place.

The back-end solutions include drug courts and alternatives to incarceration, such as home monitoring, which are less expensive than incarceration and more effective in reducing recidivism; and in sentencing, eliminating mandatory minimum sentences and other excessively long sentences. Mandatory minimums have been studied and shown not only to waste money, but also do nothing to reduce crime. And rehabilitation programs, such as drug treatment, education, job readiness in prisons, all have been proven to effectively reduce crime and most save more money than they cost.

At today's hearing we will focus on what can be done on the back end, that is after a person is convicted, but we should also not ignore the cost-effective initiatives that get young people out of what the Children's Defense Fund calls the cradle-to-prison pipeline and into a cradle-to-college-and-career pipeline with comprehensive, evidence-based, locally tailored strategies which significantly reduce crime and save money.

So I look forward to the testimony of our witnesses, all of whom have made significant progress in solving the problem, not only by reducing crime, but also saving money, and then reinvesting that money into initiatives that will reduce crime even more and save even more money.

I also look forward, Mr. Chairman, to working with you in dealing with cost-effective, evidence-based strategies that can, in fact, reduce crime and save money. And I yield back the balance of my time.

Mr. SENSENBRENNER. Thank you.

Let me introduce our witnesses. Before doing that, without objection all Members' opening statements will be placed in the record at this point.

[The prepared statement of Mr. Sensenbrenner follows:]

Prepared Statement of the Honorable F. James Sensenbrenner, Jr., a Representative in Congress from the State of Wisconsin, and Chairman, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations

Since the 1980s, the federal Bureau of Prisons has experienced a dramatic growth in its prison population. The number of inmates under BOP's jurisdiction has increased from approximately 25,000 in fiscal year 1980 to over 216,000 today. Since 1980, the federal prison population has increased, on average, by approximately 5,900 inmates each year.

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The federal government is not alone in facing an overburdened correctional system. The states have struggled with similar issues in recent years. While the number of prison inmates across the country has been slowly decreasing since 2008, as of 2012, there were still over 2 million people incarcerated in prisons and jails nationwide. And the costs of incarceration have increased in the states—in 2012 alone, the states collectively spent more than $51 billion on corrections.

Each of the states faces unique challenges that drive prison costs and overcrowding, but it is commonly accepted that high rates of recidivism greatly contribute to these problems on both the state and federal levels.

A number of states and localities have taken innovative approaches to managing prison growth and recidivism through the Justice Reinvestment Initiative, a program done in conjunction with the Justice Department and several non-profit partners. Through this initiative, participating states and localities conduct a comprehensive analysis of the jurisdiction's criminal justice data, identify drivers of corrections populations and costs, and help to adopt appropriate policy changes to address prison growth, recidivism, and cost controls without compromising public safety.

The participating states are at varying stages of the process and broad reform clearly cannot happen overnight. However, a January 2014 report on the Justice Reinvestment Initiative found that the savings from implementing the initiative could save the participating states as much as $4.6 billion over ten years by helping to ensure that fewer inmates endlessly cycle in and out of prison. This is encouraging news.

Today we have before us a distinguished panel of witnesses to share how different states are tackling prison reform responsibly and effectively, and hopefully how some of these reforms might be translated to the federal system. We are honored to have you all here today.

[The prepared statement of Mr. Goodlatte follows:]

Prepared Statement of the Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary

Thank you, Chairman Sensenbrenner. I am very pleased to be here today to discuss the important issue of prison reform. With more than 2 million people and growing in prison in the United States, and state and federal budgets straining to support their corrections systems, this is a topic that deserves close review.

So much of the recent attention to the U.S. prison population has focused on sentencing practices, particularly for drug crimes. This focus, however, completely ignores a critical piece of the puzzle—what happens in our prisons and upon release to help stop the endless cycle of criminality that is a significant contributing factor toward our prison overcrowding."

In April of this year, the U.S. Justice Department released shocking numbers on the rate of recidivism in this country. According to a study on prisoners in 30 states, more than two-thirds of released prisoners were arrested for a new crime within three years of release, and more than 75 percent were rearrested within five years.

The study also found that more than half of these prisoners were arrested within one year of leaving prison, and that just one-sixth of the released prisoners were responsible for nearly half the 1.2 million arrests in the study's five-year period.

These shocking numbers send the message loud and clear—our prison systems, including post-release supervision, are not succeeding at the critical task of rehabilitating offenders.

So often, we in Congress think that the best way to effectuate change is for the federal government to impose its will on the States. I disagree with that approach—particularly on the issue of prison reform. When it comes to reforming prison systems responsibly and effectively, the states are acting as true "laboratories of democracy." Through the Justice Reinvestment Initiative and other efforts, a number of states are using data-driven analyses to find ways to reduce recidivism and manage their prison populations in a more cost-effective manner, without compromising public safety.

I commend the three states represented here today for their efforts in this area, as well as the many others that are engaged in meaningful prison reform, and look forward to hearing about whether the lessons they have learned might be applied at the federal level.

Thank you and I yield back the balance of my time.

Mr. SENSENBRENNER. The first witness is the Honorable Cam Ward, who is an Alabama State senator, first elected in 2010. In his first term as State senator, he was appointed as Chair of the Senate Judiciary Committee. Mr. Ward chairs the Joint Legislative Prison Committee and is chairman of the Alabama Prison Reform Task Force created in 2014 during its legislative session to study prison overcrowding. Mr. Ward also served two terms in the Alabama House of Representatives. He was previously appointed deputy attorney general for the State of Alabama, worked as an assistant secretary of state, where he dealt with election laws and corporate filings, and was also a district director for Congressman Spencer Bachus, who is a Member of the Subcommittee. He received his bachelor's degree from Troy University and his juris doctorate from the Cumberland School of Law.

The Honorable John E. Wetzel is the secretary of corrections for the Commonwealth of Pennsylvania. Since his appointment in 2010, Mr. Wetzel has presided over the first population reduction in Pennsylvania in over four decades. Additionally, he has overseen the restructuring of the community corrections system, the mental health system, and a reengineering of internal processes to yield a more efficient system of program delivery.

He began his career in Lebanon County as a correction officer, treatment supervisor, and training academy director. He also served a 9-year tenure as warden of the Franklin County jail. Under his leadership, Franklin County saw a 20 percent reduction in its population while the crime rate declined. He was then appointed to the Pennsylvania Board of Pardons as the board's correction expert. He is a member of Harvard's Executive Session on Community Corrections, which is a joint project of Harvard's John F. Kennedy School of Government and the National Institute of

Justice. He received his bachelor of arts from Bloomsburg University and has done master's level coursework in applied psychology at Penn State University.

Mr. Jerry Madden has served 10 terms in the Texas legislature where he has served as chairman of the Committee on Corrections, as well as a member of the Judiciary and Civil Jurisprudence Committee. He headed Texas' 2007 criminal justice system reforms legislative initiative, which sought to divert individuals from prison through mental health and substance abuse treatment programs, provide more opportunities in prison for rehabilitation, and properly utilize probation and parole mechanisms to avoid greater costs if new prisons were built.

In 2010, he was appointed to serve on the Texas State Council for Interstate Adult Offender Supervision and was named co-chair of the National Conference of State Legislatures' Sentencing and Corrections Work Group. After completing his legislative career in 2013, Mr. Madden was named a senior fellow for the Right on Crime at the Texas Public Policy Foundation, where he serves today. He received his bachelor's degree from the West Point Academy and his master of science degree from the University of Texas at Dallas.

Dr. Nancy C. La Vigne, and I probably mispronounced it.

Ms. LA VIGNE. It is La Vigne.

Mr. SENSENBRENNER. La Vigne. Okay. Is director of the Justice Policy Center at the Urban Institute, where she oversees a research portfolio of projects spanning a wide variety of crime, justice, and public safety topics. Before being appointed as director, Dr. La Vigne served as a senior research associate at the Urban Institute directing research on prisoner reentry, crime prevention, and the evaluation of criminal justice technologies.

Prior to joining the Urban Institute, Dr. La Vigne was the founding director at the Crime Mapping Research Center at the National Institute of Justice. She later served as special assistant to the assistant attorney general for the Office of Justice Programs within DOJ. She has also held positions as research director for the Texas Sentencing Commission, research fellow at the Police Executive Research Forum, and consultant to the National Council on Crime and Delinquency. Dr. La Vigne received her bachelor's degree from Smith College, her master's degree from the LBJ School of Public Affairs at the University of Texas at Austin, and her doctorate from the State University of New Jersey.

We ask that all of you limit your comments to 5 minutes. I think you know what the red, yellow, and green lights mean. And without objection, all of your written statements will be placed in the record prior to your testimony.

Senator Ward, you are first.

TESTIMONY OF THE HONORABLE CAM WARD, CHAIR, PRISON REFORM TASK FORCE, ALABAMA STATE SENATE

Mr. WARD. Mr. Chairman, Members of the Committee, thank you for giving me the opportunity to address you today on a very serious issue that is facing Alabama. My comments come from a unique position that my State would be what you would call a failed correction system. However, these challenges have forced us

to take advantage of many opportunities that we know are proven and available to us if we have the political will and courage to take them on.

We have the highest incarceration in the United States today. At 192 percent, our prison system is more overcrowded than almost any other country in the world. But we also have the eighth highest crime rate. That tells us one thing: Locking them up and throwing away the key is not a solution to our problem.

In order to reach a capacity of 137 percent overcrowding, we would have to spend nearly $600 million to build our way out of this problem. That would be over half of our entire general fund for the State of Alabama. Not only is that not feasible, that is fiscally irresponsible and morally unacceptable. Today in Alabama we spend $42.50 a day per inmate that we put in incarceration. In order to reach the same level of our neighbors of Florida and Georgia, we would have increase spending per inmate by 20 percent. Due to the recession and other fiscal restraints, that is just not feasible either.

So what do we do? In my 12 years of public service, I can tell you, I have rarely seen an issue that generates more bipartisan support than this particular issue does. Faced with this problem, a bipartisan effort was initiated this past spring, launched with the Justice Reinvestment Initiative in Alabama.

This spring, the legislature created the Alabama Prison Task Force, and the leaders of all three branches of government came together—which is rare by the way—to support this 25-member coalition to bring about new changes in Alabama's prison system. Governor Bentley named me chairman of this group, and immediately we went about creating a diverse organization that both includes prosecutors, victims rights advocates, as well as inmates' rights advocates.

This group has started working, and right away we have seen what other States have done that can make a true difference in Alabama. Recent States that have taken on the Justice Reform Initiative have seen a drop by nearly 8 percent of their prison population with almost no crime increases.

Over the years, Alabama, like many States, have passed enhanced sentences for different crimes. We have limited parole for nonviolent offenders and refused to amend or update our Habitual Offender Act. This has created the problem we are in today. We have stuck our head in the sand and act like it didn't exist when every day it was right there in front of us. We no longer have that opportunity.

However, there is a road map forward that shows what we can do to fix this problem. There has been proven success stories, and there are several examples of what we can do. For example, our disjointed sentencing guidelines have varied greatly between circuits and counties. The Sentencing Commission, created very similar to what you have on the Federal level in Alabama in 2000, has come up with a model for presumptive guidelines that will now make sure there is more uniformity in how sentencing is carried out. We have had more data-sharing opportunities between the various criminal justice organizations in Alabama to show which criminals or which offenders should be put in for a longer period

of time, which should be released earlier, and which may be qualified for alternative sentencing programs.

At the end of the day, though, as I tell my colleagues every day, money is not going to be the solution alone. There has to be alternative sentencing programs available for the people of Alabama. Community corrections, which helps reduce recidivism and increase the productivity of an inmate once they leave the custody of the State system, drug courts, mental health courts, and now veterans courts offer us an opportunity to not only reduce recidivism, but do it for a third of the cost.

Community corrections in Alabama exist in 48 counties. My goal would be to expand that to all 67 counties, make it a uniform process. Currently, today 3,700 inmates who would be prison-bound are currently in community correction programs. What is the difference? In community corrections, we spend $11.50 a day. To put someone in prison, as I mentioned before, is $42.50 a day. Community corrections is the way forward. Using that program has shown to reduce recidivism greatly.

Finally, while no one likes to talk about prison education, it is a must. We must have more prison education programs. While this is not politically popular due to the cost, it is shown to reduce recidivism rates by 43 percent in Alabama. We must invest more in these programs.

Finally, drug courts and mental health courts are the key to success. Over 56 percent of all inmates have some sort of mental health disorder, and of those, 75 percent have some sort of substance abuse addiction. We have to fix those problems. This is not a politically popular issue, but it is one that Republicans and Democrats should stand together alike and try our best to fix.

I look forward to your questions, Mr. Chairman. Thank you.

[The prepared statement of Mr. Ward follows:]

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AL PRISON REFORM TASK FORCE, *Chairman*

Opening Statement Regarding Prison Reform in the States

Mr. Chairman, members of the committee thank you for giving me this opportunity to discuss the challenges that both the state and federal corrections systems in the United States face today.

I am in a unique position because I come from a state that faces the most serious challenges of any state in the union with regard to our Corrections system. This problem however, presents my state with some opportunities to address our challenges with meaningful reform that has already taken root in Alabama. The State of Alabama faces a great crisis in our Department of Corrections. At 192% capacity, we are the most overcrowded prison system in the country.

Despite this high incarceration rate, Alabama still has the 8th highest violent crime rate in the United States. This ranking, as well as the high incarceration rate, is evidence that our current model is not working. In light of the *Plata* decision regarding California's Corrections system, it is estimated that in order for Alabama to achieve a Department of Corrections level of 137% capacity, we would need to spend an estimated $600,000,000 on prison construction. This amount of spending would be fiscally irresponsible and represent over one-half of our entire General Fund Budget. Spending your way out of this problem is out of the question.

In addition to construction costs, other ideas besides "spending your way out of this problem" must be considered. Alabama currently spends

approximately $42.50 a day per inmate, ranking us the lowest in the country on spending. Bringing Alabama's per-prisoner spending up to what Georgia or Florida spend per-prisoner would require a system-wide 20% increase in per-prisoner spending. Raising Alabama's per-prisoner spending to what Arizona spends would require an over 40% increase in per-prisoner spending.

The prison overcrowding crisis has resulted in a bipartisan effort to address criminal justice issues to ultimately improve public safety, hold offenders accountable for their criminal conduct, reduce recidivism, and determine where the State's limited resources can be best spent to accomplish these goals.

Alabama's criminal justice crisis is complex and deeply rooted and there are no silver bullets to cure all that ails the system. Retired Alabama Circuit Court Judge Joseph A. Colquitt recently summarized it best when he said, "It is vital we do not succumb to oversimplifying a complicated process and accepting easy answers. In this complicated area of law, solutions that sound simple are invariably based upon limited information or faulty assumptions."

While the situation appears bleak, the State of Alabama has been involved in dedicated reform efforts for well over a decade finding solutions to help improve the efficiency and effectiveness of the State's criminal justice system, most recently in the creation of the Alabama Prison Reform Task Force. This Task Force, created by Act 2014-11, was the result of a letter submitted by Governor Robert Bentley, Chief Justice Roy Moore, House of Representatives Speaker Mike Hubbard, Alabama Senate President Pro Tempore Del Marsh, Alabama Department of Corrections Commissioner Kim Thomas and myself requesting the expertise of the Bureau of Justice Assistance, the Pew Charitable Trusts and the Council of State Governments. Alabama was subsequently selected as a site to participate in the Justice Reinvestment Initiative. In June of this year, Governor Bentley asked me to serve as the Chairman of this Task Force, which is comprised of 25 members from the public and private sector as well as all three branches of government. A special effort was made to include members from both political parties as well as inmate advocacy organizations and law enforcement.

22 states have previously participated in the Justice Reinvestment Initiative. Recently, South Carolina, North Carolina, and Mississippi have used this process to achieve reforms that should reduce their prison populations by 8-10%.

For decades, Alabama has grappled with a growing criminal justice system seemingly tugged in two different directions.

To moderate the spiraling prison population growth and in response to crisis conditions, Alabama has utilized various alternatives such as work release, pre-trial diversion programs, supervised intensive restitution, community corrections programs, correctional incentive time (good time), parole, special release dockets, drug courts, and new prison construction. While Alabama's correctional history is replete with efforts to alleviate overcrowding, these efforts have always had to compete with laws and practices geared to punish offenders more severely, including the Habitual Felony Offender Act, sentence enhancements, good time restrictions, parole minimum time-served policies, and mandatory minimum sentences. The result of this *balancing act* is a complex set of laws, policies, and processes, each instituted over the past 30 years, to deal with the unique problem of the day. (Alabama Sentencing Commission 2003 Report).

The State began to recognize the severe challenges our system faced in 2000 when the Alabama Legislature created the Alabama Sentencing Commission to review Alabama's existing sentencing structure, including all laws, policies, and practices. The Legislature further directed the Commission to provide recommendations on improvements to the State's criminal justice system on an annual basis. The Commission is a 21-member body comprised of representatives from the three branches of state government and other major stakeholders in the state's criminal justice system.

By the time the Commission was created, the entire criminal justice system was in need of comprehensive reform. Many believed the problems were too numerous and severe to resolve—an overcrowded prison system that had existed for years; county jails backlogged with state prisoners; a system lacking

truth-in-sentencing; confusing prison release policies; insufficient community based sentencing options; and a general fund that had no money to spare. The foundation for all recommendations and decisions made by the Commission has always been empirical evidence. The Commission established cooperative data sharing procedures with the Administrative Office of the Courts, Alabama Department of Corrections, Board of Pardons and Paroles, the Alabama Criminal Justice Information Center and the Alabama Community Corrections Association. These agreements allowed—for the first time in the state's history—a comprehensive database to be created allowing for unprecedented insight into the state's sentencing and correctional system. Applied Research Services (ARS), founded by Drs. Tammy Meredith and John Speir, was hired to help develop the Commission's ability to collect, analyze, and interpret the immense amount of information.

Alabama recognized it could no longer afford to guess which policies would most effectively secure the safety of citizens but needed to join the ranks of states employing the use of empirically supported research to guide sentencing and criminal justice policy. In addition to not measuring what policies may or may not better protect public safety, the state did not have the ability to forecast or predict the impact of changes in sentencing laws and practices on criminal justice populations. ARS constructed, and the state still uses, one of the most accurate computerized correctional simulation models in the country. This tool allows the Commission to measure the impact of proposed laws or practices before implementation providing an essential tool for the development of an intelligent and carefully planned criminal justice system.

The major component of the Commission's work has been the creation and recent modifications of the state's Sentencing Standards (guidelines). One of the initial findings after reviewing years of statewide sentencing information was that sentencing practices varied immensely across the state. Even similarly situated offenders often received very different sentences (incarceration vs. community supervision and length of sentence). The Standards were developed to eliminate unwarranted sentencing disparity while maintaining meaningful

judicial discretion. The initial Sentencing Standards that went into effect October 1, 2006 were voluntary. After reviewing years of information, the Initial Voluntary Sentencing Standards were not followed to the extent that was hoped. In the 2012 Regular Session, the Alabama Legislature directed the Commission to make the necessary modifications to the Initial Voluntary Sentencing Standards to transition to Presumptive sentencing for drug and select property offenses beginning October 1, 2013. This has not been without political debate within the law enforcement community. I have worked closely with our District Attorneys to make sure these guidelines do not hinder the prosecution or settlement of cases. As I have said before, this reform effort will continue to be a work in progress and further changes may be necessary to the sentencing guidelines.

Alabama can greatly reduce its' overpopulation that depends solely on incarceration by using alternative sentencing programs. The problem is that Community Corrections programs that are currently in the state are not created by the state nor staffed by state employees. These programs can only be created by a county or non-profit agency pursuant to state law; however, they provide an essential service helping to alleviate state prison overcrowding by supervising felony offenders upon direction from courts and supervision of offenders leaving prison. Recognizing the state needed more community corrections programs and to make existing ones more efficient and effective, the Sentencing Commission recommended, and the Legislature later approved, the creation of a Division of Community Corrections within the ADOC with a full-time director and staff and an appropriation from the general fund budget earmarked for program implementation and operating costs. Out of the 67 counties in Alabama, there are 48 counties with a community corrections program and ADOC continues to coordinate with other counties to establish new programs.

Community Corrections Programs (CCP) offers a variety of services as alternative punishment options for judges to utilize to assist the state, counties and municipalities with crowding within incarceration facilities. The purpose of community corrections is to provide services that expand the options available for sentencing criminal defendants. By diverting low to medium-risk offenders from

prison, scarce prison space is available for the incarceration of violent and repeat offenders. Many offenders exhibit characteristics that are static and cannot be changed. However, dynamic factors such as poor work habits, criminal associates and lack of educational training can be impacted through targeted interventions. Offenders who display a range of actions that are correlated with criminal conduct respond well to such interventions.

To improve community corrections outcomes, the Alabama Department of Corrections (ADOC) adopted evidenced based practices. In 2012, ADOC implemented a validated risk and needs assessment instrument known as the Alabama Risk Assessment System (ARAS) for community corrections offenders. The goal of the system is to provide assessment tools that are predictive of recidivism for offenders, which allow county programs to allocate critical resources to those offenders who have an increased risk of recidivating.

Additionally, ADOC developed and implemented a statewide Community Corrections Offender Contact/Supervision Matrix based on the principles in the Alabama Risk Assessment System. This matrix is an invaluable tool to assist programs in the allocating of critical resources to offenders based on risk levels identified in the risk and needs assessment.

Alabama's Community Corrections Programs have experienced significant growth during the last 10 years. During the period from FY 2003-2013, the community corrections population grew by 548% - 503 offenders in FY 2003 to 3,261 offenders in FY 2013. In fiscal year 2003, there were 21 county community corrections program in Alabama; by FY 2013 there were 34 community corrections programs serving 45 counties. The growth during this period was 114% or an increase in 24 counties served. Currently, there are approximately 3,700 "otherwise prison bound" offenders being supervised in the community. The ADOC pays CCPs a monthly per diem for approximately 2,300 felony offenders.

One important factor to grow Community Corrections is to increase the number of counties who decide to organize a CCP and to provide a financial

incentive for CCPs to reach and surpass established goals to divert offenders who would otherwise be sitting in a prison bed.

Reading past reports of the Alabama Sentencing Commission reveals not only the debate regarding Corrections in my state but also future paths that may be taken if we have the political will. The 2003 report recommends that the state "provide a system of intermediate community-based punishment options allowing overnight incarceration as both a sentencing option and a re-entry option." It continued, "On the front end, these facilities allow courts an additional sentencing option, placing non-violent offenders in the community to live in a penal facility and to work and pay for their incarceration, restitution, and family support. In addition, this type of facility can be used on the back end of a sentence of incarceration to require a gradual re-entry into the community for all incarcerated offenders who will be eventually released from prison back into the community."

Any discussion about Alabama's criminal justice system must include the Board of Pardons and Paroles. Nearly 53,000 felony offenders are on probation or parole supervision on any given day in Alabama. Fiscal constraints limiting the number of supervising officers have resulted in caseloads of nearly 200 offenders per officer, well above the nationally recognized standard of the desired caseload of 75 offenders or less per officer. Probation and parole officers have other duties other than offender supervision including preparation of presentence investigations, youthful offender investigations, sentencing standards worksheet preparation, victim location and notification, and collection of court ordered money.

The State cannot continue to crowd the prisons and we cannot expect to improve public safety by having unmanageable caseloads for probation and parole officers tasked with supervising nearly 53,000 felony offenders. There will likely have to be large shifts in the community supervision models employed in the state—both from staffing perspectives and how to best protect public safety by matching offenders with appropriate services that will decrease the likelihood of further criminal activity. The implementation and use of validated empirically based risk and needs assessment tools needs to be continued and expanded to

all segments of the criminal justice system to make best use of the resources allocated.

Any future reform efforts in the Alabama Corrections System must be data driven and not politically driven. We must begin to use the benefits of modern science and academic studies to help resolve the challenges that face all areas of the Criminal Justice System. In Alabama, recent improvements have been made and must continue. These reforms include improving the effectiveness of information sharing among all components of the criminal justice system; utilization of a risk-needs responsitivity model as the way to channel scarce program resources to those offenders who will benefit the most; and enhanced utilization of community corrections programs—diverting offenders from the costly confines of a correctional facility and offering an opportunity for rehabilitation in their community with family and positive role models who support rehabilitation. In addition to these reforms, we must also understand the importance of correctional education and properly funding a proven method of lowering our recidivism rates.

Corrections Systems in both Alabama and those under federal jurisdiction have a similar statistic in common. According to data from the Bureau of Justice Statistics (BJS) more than half of all prison and jail offenders have mental health (MH) problems. Specifically, 56.2% of state prison offenders have a mental health problem; 64.2% of local jail offenders have a mental health problem; (It should be noted that this is on a broader definition of mental health as opposed to those with serious and persistent mental illness SPMI) 74.1% of offenders with mental problems have a history of substance abuse (SA) or dependency; and 55.6% of offenders without mental problems have a history of substance abuse or dependency. It is clear that successful treatment of behavioral health disorders among offenders is a key component of addressing crime and recidivism rates. The method for addressing these problems has been successful in many parts of Alabama but have not been uniformly applied throughout the state leading to disjointed services. Providing a uniform, statewide system of Drug, Mental Health and Veterans Courts continues to be a goal for

others and myself in state government. It has a proven track record of greatly reducing the recidivism rate in the criminal justice system. While these alternative court procedures provide a valuable tool in reducing recidivism, they are not currently in place for every Alabama circuit. With a previously noted high level of drug addiction and mental health inmates, these courts offer a real opportunity for reducing future incarceration rates for non-violent offenders. We need to be proactive in expanding these programs throughout our state.

There are several other reform measures that continue to be studied in Alabama, but they need more support from the legislature. To better ensure access to and continuity of care for offenders, Alabama is creating the Alabama Secure Sharing Utility for Recidivism Elimination (ASSURE) information sharing portal. This innovative approach will allow authorized personnel from the Department of Corrections, Board of Pardons and Paroles, Department of Mental Health, community-based mental health and substance abuse providers to share treatment and supervision information for offenders.

The primary objectives of the initiative are to help offenders stay out of prison by allowing probation officers to monitor participation in court-ordered treatment programs. Secondly, it is important to ensure that offenders who go to prison receive the care they need by allowing intake and health care professionals to access treatment records from Mental Health hospitals and community mental health centers. Lastly, the objective is also to enable those who are leaving prison to receive speedy follow-up care within the community to improve the odds of their success in our communities. These objectives impact the safety of our neighborhoods and begin to favorably impact our recidivism rates.

The importance of funding these crucial information-sharing efforts, such as ASSURE, cannot be underestimated. These initiatives help lower costs by increasing the effectiveness and efficiency of the intake process for mental health and substance abuse service providers, mental health professionals, supervising probation and parole officers and our correctional professionals. Information sharing portals also enhance the continuity of care and reduce reliance on

emergency room services by referring people leaving correctional facilities to community-based mental health and substance use treatment services. More funding from both the state and federal government can help reduce overall constraints on state correctional systems by investing in these proven successful programs.

Our District Attorneys have also put forth many initiatives that have consistently been employed to reduce prison population. Among others, they have established adult drug courts and veteran's courts to deal with those drug offenders who would otherwise go to prison and to deal with the special needs of our veterans who were also most likely headed to prison. Their pretrial diversion programs have had a substantial impact on our system as well. Many thousands of non-violent, low-level offenders are kept out of the penitentiary system through all of these programs. Most cases are diverted after arrest and before grand jury thereby saving valuable court resources for those violent offenders who need to go to prison.

Evidence based programs must become the cornerstone of our criminal justice practices. The utilization of a needs responsivity model is the way to channel scarce program resources to those offenders who will benefit the most. The Ohio Risk Assessment System (ORAS) is being used in our community corrections programs throughout the state and recently within our correctional system. This evidence-based instrument is a strength-based risk and needs assessment designed to predict recidivism at different points in the criminal justice system. This instrument has been validated and normed for a corrections population. The use of the standardized assessment tool promotes the objective assessment of the risk of recidivism for offenders; its use improves communication with offenders and helps tailor treatment plans for the individual's identified need(s).

The ORAS interview guide is comprised of questions on a variety of criminogenic risk topics including criminal history, substance use, criminal peers, criminal thinking, employment and education, mental health, emotional control, personality, and residential stability.

The self-report instrument gathers information on criminal thinking, perspective taking, aggression, coping, empathy, emotionality, problem solving, and involvement in pro-social activities, financial stress, and employment. The ORAS tools will be used to target services for individuals assessed as moderate to high risk for recidivism. Use of the instruments will define the appropriate type, dosage and intensity of treatment and services both pre- and post-release for each program participant. The individualized reentry plan can incorporate the offender's risk and need level and identify which are the greatest criminogenic needs. These needs will be addressed in a targeted and systematic manner using interventions grounded in Cognitive Behavioral Therapy.

In 2007, the Alabama Sentencing Commission selected the ORAS Pre-Trial Assessment Tool for use with alternative sentencing programs. Community Corrections agencies are also utilizing the Community Supervision Tool, and ADOC will utilize the Prison Intake Tool at its receiving facilities and the Re-entry Tool through its Pre-release and Reentry Program within the facilities.

Key professionals, in state, county and local governments can use these models to develop individualized reentry plans to assist them as they transition from incarceration to the community. This uniform approach can provide consistent and sustained case planning and management out into the community.

While politically unpopular during tough budget times we must not forget the value of Correctional Education in Prison Reform. Being "Smart on Crime" suggests we work to rehabilitate those in custody. One important tool we have in our rehabilitation toolbox is correctional education that offers basic education, workforce training, and life skills necessary for success in our society. If we do not face the reality of this need, the chances that an incarcerated offender will be successful on the outside are bleak indeed. While some violent inmates will not and should not ever return to society where they are a threat to public safety, many inmates eventually do return to the community. Meanwhile, public opinion is generally averse to spending money on correctional education efforts and

instead advocates 'locking them up and throwing away the key.' In reality, locking them up and throwing away the key will not work—and has not worked.

According to statistics provided by the American Correctional Association and U.S. Bureau of Justice, some 95% of all offenders incarcerated today will ultimately be released back into society. This public opinion results in significant pressure, which leads decision-makers away from what is known about national practices regarding corrections. Consequently, not only is 'locking them up and throwing away the key' ineffective in making long-term change in offender behavior, it will not make Alabama citizens safer, and it is an economically unsustainable model. What do we know about the success of correctional education efforts?

It is well known and documented that education and skills training significantly reduce recidivism. A recent RAND research effort titled "How Effective is Correctional Education and Where Do We Go From Here?" reported that Correctional education improves offenders' chances of not returning to prison and their chances of post-release employment. It also found that offenders who participate in correctional education programs had 43 percent lower odds of recidivating than those who did not. This translates to a reduction in the risk of recidivating of 13 percentage points. Again, the goal of such basic education programs is to reduce recidivism and saving money for corrections system in the long run.

In conclusion, while Alabama has a serious challenge ahead in resolving our prison-overcrowding problem I believe that some of the alternative programs I mentioned today provide as a road map to a healthier system in the long run. Whether it is on the state or federal level, fixing corrections programs is not an easy or short-term task. There are some tough political choices that have to be made but fiscal constraints on our budgets and the obligation to maintain a constitutional system of corrections require that we start addressing this problem sooner rather than later.

Mr. SENSENBRENNER. Thank you very much, Senator.
Secretary Wetzel.

TESTIMONY OF THE HONORABLE JOHN E. WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS

Mr. WETZEL. Thank you. Thank you for the invite, Mr. Chairman and Members, and thank you for allowing me to come and talk a little bit about what Pennsylvania has done over the past 3½ years to really improve our correction system and criminal justice system as a whole.

The first thing I would absolutely encourage, and I believe is an imperative as we talk about this issue, to really start at what we have common ground on. And I think what we can all agree on, it doesn't matter what room I am in, and, you know, in this business of politics, there is rarely anything that we can all agree on, but the one thing that we can all agree on is what we want out of our correction system. And what we want is that when someone comes in the front end of the system, when they get out of the back end of the system they are at least not worse. I mean, it is just that simple.

So if you start with that, and you start with what I would call the prime directive, and the prime directive is every decision we make will be a decision that research indicates is likely to have the best outcome, and if you sprinkle that throughout the whole system, starting at the front end, then you can't go wrong. And in this environment where in Pennsylvania our budget is $2 billion, we are the third line item in the State general fund spending, and I know that because I hear it every place I go, right, so if we are going to spend that much money, let's make sure we spend it well.

And so when you start at the front end of the system, and I know the focus of this discussion is what we can do in the back end, but you can't talk about the back end without talking about the front end. And if you are not assessing risk when an individual first comes in the system, I don't know how you make a decision, I don't know how you reach that goal of having better outcomes.

So when we talk a lot about risk assessment, think of it in context of diagnosis. Right? So if I went to a doctor and said I am not sure what is going on and told him my symptoms and he said, oh, you have cancer, I would say, well, hold on, you are going to do some tests, right? That is what you should be saying to me. Hold on. What do you mean this person has to get sent to a State prison or Federal prison. You are going to do some tests. Right? You are going to see if that decision is the decision most likely to get the best outcome, which is someone would be less likely to commit crime.

And so that risk assessment or diagnosis needs to also understand what the root cause of the crime is. And if it is addiction, provide programming for addiction, because you can put an addict in prison for 10 years, they are going to come out the back end an addict if you don't address that. So that is not a good return on investment from that approach. Or if they are mentally ill and we don't address the mental illness, that is not a good return on investment because they are going to commit another crime. And again, keep in mind outcomes.

So what can we do on the back end? And really when you focus on the back end, think of it in context of what barriers remain for the individual to be successful when they get out. And so what we did is we looked at, first of all, really simple things. Like in 2008 we released 20,000 offenders and we released 300 offenders with an ID. Now, what can you do without an ID in this country today? Not much, right? And when you talk about does it make sense to buy an offender an ID, they were spending an extra 2 weeks in a halfway house because they didn't have an ID, at $70 a day.

So we put an initiative forward. Last year we released 9,000 inmates, up from 300, with IDs, but it is 9,000 out of 20,000. So we are not bragging too much because we should be closer to 20,000 out of 20,000. But it is just those simple things.

So what are other barriers? The other big thing we did, and probably the most impactful thing we did, is we performance contract our halfway house. So we had a study done in 2009 by University of Cincinnati, and they found that 95 percent of our programs were failing. In other words, if I were to release an offender directly on the street, they would be likely have a lower recidivism rate than if we put them through a halfway house. And for these great outcomes, we were spending $110 million.

So we gutted the whole system, we rebid all the contracts, and we put performance measures in the contracts. So earlier on in our administration, we did a baseline recidivism study, and we used that baseline to say to the providers at halfway house services, listen, when we send offenders through your center, we want you to do A, B, C, and D. But that is all well and good. When they come out, they better have a lower recidivism rate or at least not a higher one. If they have a lower recidivism rate, you get a 1 percent increase at the end of the year. If you keep it within one standard deviation above or below the baseline recidivism rate, you continue in good standing. If it is increased, you get one 6-month warning, then we fire you. And if it is a state-run center, we close you.

So the theme here is it is okay to expect outcomes. And, frankly, for the investment we are doing, we should expect outcomes from our system. Thank you.

[The prepared statement of Mr. Wetzel follows:]

John E. Wetzel

Pennsylvania Secretary of the Department of Corrections

July 15, 2014

Testimony before the United States House of Representatives

Judiciary Committee's Subcommittee on

Crime, Terrorism, Homeland Security and Investigations on Prison Reform

I'm honored to have this opportunity to talk about the progress that Pennsylvania has made over the past several years in not simply reforming its corrections system, but beginning to transform its corrections system.

That transformation began with a specific goal and that goal is to reduce crime.

Every decision throughout our corrections system must keep one target in mind: that when someone leaves one of our prisons and is successfully reintegrated into the community, we've proactively impacted crime.

In order to accomplish this goal, it was essential that we established a baseline, which is the recidivism rate. However, instead of measuring recidivism by the rate at which offenders who are released return to custody within three years, we added the component of re-arrest in consult with our goal to reduce crime. We utilized our baseline as the combination of those individuals who were both re-arrested and re-incarcerated within three years. This baseline was an important central step in, first, signaling to the system that we expect outcomes, and second, providing the foundation for the introduction of performance contracting in aspects of our operation. Additionally, through the use of GIS technology, we mapped exactly where offenders were returning, looking both at individuals and clusters of returnees. From there, we could work toward aligning our resources where they were needed.

The next finite step was to identify data in the form of research to guide every decision throughout the process. The first aspect we focused on was ensuring that we added scientific assessment, or objective risk assessment, throughout the system. Through our justice reinvestment initiative, we funded the development of a risk-based sentencing tool by the Pennsylvania Commission on Sentencing to give judges data in which to make those critical placement decisions. An assessment review of offenders was done at the front door, upon entering our system, where we found a significant amount of discretion drifting away from the research. We re-initiated risk/need responsibility principle assessments and ensured they were completed with fidelity. At the back end of our system, the Pennsylvania Board of Probation and Parole (PBPP) assesses individuals prior to release in an effort to determine risk levels upon reentry into the community. Finally, the community corrections centers are required to assess individuals upon arrival. This has culminated into the ability to more thoroughly assess individuals throughout their journey within the Pennsylvania criminal justice system.

Historically, the Pennsylvania Department of Corrections (DOC) has offered a number of robust evidence-based programs available for the inmate population. However, even the most vigorous system requires objective reviews to make sure the needs of the offender are being met. Therefore, the assessment process of varying programs continues with an eye toward implementation in a manner that allows for random assignment whenever possible to provide authoritative research and the most accurate predictability of the research or the results of the research. Additionally, we really stepped out of our "kingdom," if you will, and enlisted the aid of the Department of Labor and Industry to review our vocational offerings to better ensure that an ex-offender will acquire and maintain a job based upon one of the 90 to 100 skillsets we offer to the general population.

In 2009, we commissioned research with the University of Cincinnati which found that 95 percent of the programs offered by the halfway houses resulted in offenders leaving the centers with a higher recidivism rate than offenders going directly to the street. It was clear that we had some work to do in this area. Prior to evaluating the halfway houses, we reviewed the DOC's responses, specifically what the department was doing to prepare offenders to go into either the community or a halfway house, and identify things that were barriers to individuals being successful. We the developed an interactive resource map, to be given to offender leaving via "cloud technology," jump drive and ultimately a smart phone app, aiding them in finding resources that will aid their re-entry.

One of the more simple, yet impactful, implementations is to ensure the issuance of Department of Transportation identification cards prior to release. Prior to our administration, 20,000 individuals were released with 380 IDs; last year, we released more than 9,000 with IDs. It was as simple as developing a memorandum of understanding with the Department of Transportation and then putting an emphasis on it. The release of offenders with their IDs enables them to connect with services that are available to them more readily, thereby removing an imposing barrier.

We then looked at individuals who received positive paroling actions yet weren't released from jail. It was determined that the vast majority of those offenders did not have an approved home plan and, consequently, left them sitting in a jail cell. We tackled this problem in a couple of ways. First, we developed a housing voucher program that provides a security deposit and six months' rent for individuals who were low- to low-medium risk that lacked a

home plan. When doing a cost benefit analysis on this approach, we found that at the time we were spending, on average, $70 a day for a halfway house with 90 days as the average length of stay. In other words, we were spending about $3,600 to put someone in a halfway house.

For low- and low-medium risk offenders in particular, that group had bad outcomes because they're lower risk. Keep in mind the risk/needs principle - low risk offenders do not need the services of a halfway house - as a matter of fact, it makes them worse. By carving this group out, we create a capacity in our halfway houses, and we also made a better investment that puts them a step close to housing permanence.

The other benefit to this approach was instead of taking our entire community corrections budget and spending it for a residential halfway house, we used a portion of this money to pay local landlords. Specifically, we put a bid out for regional housing with the intention of establishing relationships with local landlords, and by doing so, we're also investing in the infrastructure in the community.

We also did a study in 2009 on technical parole violators, individuals who came back without a new charge, but had violated some term or condition of release. We conducted focus groups with those who came back and those who didn't. The one significant difference between the group who came back and the group who didn't, was that the group who didn't return to prison had someone identified as a mentor. We then, first of all, through the justice reinvestment legislation, specifically authorized the department to contract with non-profits and faith-based community organizations, and then worked with those groups to provide mentors.

The mentoring program is structured in such a way that mentors can come into the prison two months before an individual is released and follow them for four months after they're released to provide that positive community connection. Again, this is not to supplant halfway houses or other re-entry initiatives, but to augment these services so that it's possible for an individual to be released, go to a halfway house, and have a mentor to work them through that difficult transition period.

Next, we looked at our halfway house system. And again, first we looked internally. What we found was that we were putting offenders in halfway houses that were not in their home community. As a matter of fact, in some cases, we were putting them in houses on the other

side of the state. In the context of community corrections, the community piece is with a big "C." It's important that we re-engage positive community supports that are already present for offenders, or develop positive community supports for offenders going back, and it's more likely to happen if they return to their communities. As a department, we made that change internally.

The second thing we did was establish minimum standards, again driven by the data and research, things like making sure individuals were assessed to ensure that there was cognitive behavioral therapy interventions available for them in the halfway house. We established minimum standards to say every halfway house in our system will have this program.

That being said, the crown jewel of our approach was to utilize the recidivism study that we did as a baseline early on in our administration where we rebid all of the community corrections contracts with an embedded performance measure. Specifically, in every halfway house we look at the actual risk makeup of the offenders and, based on the number of participants, we identified each center as a low, medium, or high risk. This provides a baseline recidivism rate for low, medium and high centers.

We have a performance measure in the contract that's structured in a way that if the offender leaves between one standard deviation above or below the mean, or the average recidivism based on the risk of that center, the provider is in good standing with the department. If the offender leaves the center with a lower recidivism rate than the makeup of that facility - they get a 1 percent bonus. If the recidivism rate of an offender is increased when they leave the center, more than one standard deviation away from the mean, the halfway house gets one warning period and, if it happens a second time, the community corrections center loses the contract.

Again, through this study we were able to develop with some certainty a measurable six-month recidivism rate so we could get an important component through quick feedback to the centers. In the first marking period, we have had very good news. Overall, offenders going back to the halfway houses have seen a 2 percent reduction in their recidivism rate. This equates to about 58 less crimes for a quarter of a year.

Beyond that, we have had 10 centers that earned the bonus by reducing recidivism rate for offenders going through their system beyond one standard deviation from the mean. We only

had one center in the warning period that saw an increase in the recidivism rate. The one thing that's very clear, and again, it's early on, is that our partners are now paying attention to recidivism and expecting outcomes.

Finally, we did a review of what leads people being violated back to the DOC. When violated on technical violations, they were spending between nine and 14 months in a state prison.

In conducting focus groups and talking to parole officers, the constant and continuous feedback received was a lack of a good continuum of services for offender placement.

In other words, if an offender started to use drugs, parole officers really didn't have the ability to get them into a rehabilitation program on a regular basis. We looked at what parole officers needed and conducted a non-residential outpatient group that included drug and alcohol treatment as well as cognitive behavioral therapy, mental health treatment, sex offender treatment and day reporting centers - these are all non-residential.

What we're suggesting is lower cost interventions that parole officers can use in lieu of bringing an offender back to a state prison. Also, if an offender needs help with treatment in the community on their way out of incarceration, we have the ability to do it.

In summation, we first established a goal of crime reduction. We were determined to use our corrections system to do exactly what we say we do, which is to correct people.

Then we established a baseline with good, honest research on recidivism.

We then inserted science by inserting objective risk assessment throughout our system. And again, we continue to use research to affirm, knowing that we're delivering our programs with fidelity.

Finally, we specifically identified barriers to success for offenders on the back end of the system and restructured our system to be consistent with the goal of a successful re-entry.

Again, thank you for this opportunity to talk about the work we've done in Pennsylvania and I hope that the Federal Bureau of Prisons can utilize some of this approach to better their system and better the outcomes for their offenders.

Thank you.

Mr. SENSENBRENNER. Thank you very much, Secretary.
Representative Madden.

TESTIMONY OF THE HONORABLE JERRY MADDEN, FORMER CHAIRMAN, TEXAS HOUSE CORRECTIONS COMMITTEE, SENIOR FELLOW FOR RIGHT ON CRIME

Mr. MADDEN. Thank you, Mr. Chairman, Members. My name is Jerry Madden. I served 20 years in the Texas legislature. I am not a lawyer, never was on a corrections or criminal justice committee, and never had a bill on correction matters until early in my 13th year when our conservative speaker, Tom Craddick, called me into his office in January 2005 and told me, you are going to be chairman of corrections.

Of course I thanked him, as in my mind I am thinking, oh, God, why me? What did I do to deserve this? Then I asked him the second most important question in my life. I asked him, Mr. Speaker, what do you want me to do? And he gave me the eight words that changed my life. He said, don't build new prisons, they cost too much. Mission, guys, mission.

These are the words that led to Texas' reform. I am an engineer and West Point grad and I worked through the problem like a military engineer would work through it. First started by trying to find out who in the Texas legislature knew anything about corrections. There were not very many. I know that would surprise all of you here. You wouldn't have them either. But my friends directed me to the dean of the Texas Senate and the criminal justice chairman, a Democrat named John Whitmire. I went to him with my charge. And in about a 2-hour meeting we meshed perfectly.

Now, I knew John, but I never had worked on legislation with him. But it was a bipartisan beginning of our team. We looked at the projections of expanded prison population and determined first we did not want to violate prior court directives on overcrowding. So we had two choices: either to let people out early or to slow the rate of people coming in. Guess which would not fly in tough-on-crime Texas?

So we went after and looked at how do you break the cycle of people coming into prison. We always put public safety first, but we had people telling us that with added resources there were many convicted individuals we could safely keep in our community.

We tried a bill in 2005 to work on probation and passed it through the legislature, but it was vetoed by the governor. Best thing that ever happened to us. Forced us to go back and rework our efforts, to bring in a lot more people to look at probation and the reasons for the veto. We looked at programs that were available in Texas prison, on parole, on probation in the courts, and in our juvenile system. We brought in statistical help to tell us, if we changed our supplemental programs, what would happen to our recidivism rate.

In late 2006, our Legislative Budget Board came out with a prediction that we would have 17,700 more prisoners in Texas by the year 2012 and we would need to build three prisons in the 2007-2008 biennium, costing over $530 million. Our plan was ready at that time and would keep our prison population stable, according to our data, and would cost less than half of the new prisons. We

went to the governor and legislative leaders with our plan and were given the go-ahead.

This is what we did. We added substance abuse treatment beds in prison on parole and probation. We added intermediate sanction beds for parole and probation. We expanded specialty courts, put more funding for mental health treatment for the prisoners. We also brought back 1,800 prisoners that we had sent out to the county jails. All of these ideas and others were accepted.

And what are our results? Crime rates have continued to drop to levels not seen since the 1960's. Arrest rates in Texas are down. Three prisons and six juvenile facilities are permanently closed. Significantly fewer people are on felony probation. The parole rates in Texas rose from 24 percent the years we started to 36 percent last year, and the parole revocations dropped from almost 11,000 a year in 2005 to less than 5,900 last year.

Our prison population is the same as it was in 2007, and LBB last week predicted we would not need to build new prisons until 2019. Our juvenile populations have fallen from over 4,500 to under 1,300. Our State savings are over $2.2 billion as of today and growing.

An equally important offspring of our efforts is at the national level where the Texas Public Policy Foundation in 2010 created Right on Crime, the national conservative voice for criminal justice reform. These and steps by organizations like CSG, Pew, NCSL, and ALEC have taken our work as an example for reforms throughout the State.

I have been asked to give some guidance from Texas on what would help the Federal prisons in correction reform. Our system is the State system that is closest in size to your Federal system. We did our work in a bipartisan manner in an area where even at the Federal level today there is hope reform ideas can be bipartisan. We have the examples of the States that have now done reforms in this manner. Pennsylvania, Georgia, Kentucky, Alaska, South Dakota, Idaho, and Texas legislatures passed their major reform packages with overwhelming support from both parties.

In each of the States there are think tanks, organizations, and individuals with a great deal of knowledge and numerous ideas about what can be done. In Washington there are even more people who would be willing to work together for positive reform. You already have legislators from both parties and both chambers presenting legislation that can be used for improvements, and most of them are based off the ideas we started in Texas.

Also, there are now evidence-based practices to give direction to policymakers about programs that work and those that do not. Evidence-based practices should be required for all of those. We have several recommendations Right on Crime made. I will leave them there in the documentations that we have.

[The prepared statement of Mr. Madden follows:]

Jerry Madden

Former Chairman of the Texas House Corrections Committee
Senior Fellow for Right on Crime

Tuesday, July 15, 2014

House Judiciary Committee's Subcommittee on Crime, Terrorism, Homeland Security, and Investigations Hearing on Prison Reform

Testimony of Jerry Madden before the House Judiciary Committee Subcommittee on Crime, Terrorism, Homeland Security, and Investigations.

July 15, 2014

Thank you Chairman Goodlatte and Committee members for the opportunity to address you. My name is Jerry Madden. I was elected to the Texas House of Representatives in 1993. My background is that of an engineer, an insurance salesman, and Republican Party leader in Collin County Texas. I am not a lawyer and had not done any work or legislation on Corrections and Criminal Justice until January of 2005 when our Conservative Republican Speaker Tom Craddick asked me to come to his office. He told me that he wanted me to be Chairman of the Corrections Committee. I of course told him how honored I was to have such and opportunity, all the time wondering what I did to deserve this. But I then asked him what turned out to be the second most important question of my life. I asked him "Mr. Speaker, what do you want me to do?" and he told me the 8 words that changed my life. He said, "Don't build new prisons, they cost too much."

After that day I chaired the committee for 6 years and served as vice-chairman for 2 years. I served on the Council of State Governments Justice Center Board. I chaired the Criminal Justice task force at the National Conference of State Legislatures. I chaired the Corrections and Elections Task Force and the Justice Performance Project at the American Legislative Exchange Council. Because of our corrections reforms, John Whitmire and I were chosen as Governing Magazine's National Public Officials of the Year in 2010, and I have become a Senior Fellow for Right on Crime at the Texas Public Policy Foundation. I have traveled the country talking to many legislative leaders in many of our states as they start their work on criminal justice reform, and I have appeared here before Congress. All of this because of those 8 words. "Don't build new prisons, they cost too much. "

Texas has always been recognized as tough on crime. It deserves that title, and we wear it proudly. But what happened to make Texas the national leader in smart criminal justice and corrections reform in the country? And how do those things we did apply to the Federal Criminal Justice system and the opportunity to reform here in Washington? Let us start with the obvious. Texas is big and its corrections system is big. It was hard to find systems of comparable size for us to look at. In fact, only two systems were larger when we started looking at size in 2005; California and the Federal system. And they were not and are not much larger as we speak today. So in terms of number of prisoners, number of facilities, number of employees, and diversity of programs, we are slightly smaller but very comparable.

When I first started out I did not know any of this. I went searching for people in the legislature who knew a lot about our corrections system. I found out there were very few who knew the system. But in looking, I asked some of my friends in the Texas Senate and they all said the one they trusted on the subject was Senator John Whitmire. John is Dean of the Texas Senate. I had never done bill or committee work with John, and though we knew each other we had not worked on any projects together. We are of different parties and of course we were in different houses of the legislature. I went to see John and in that next couple of hours we bonded on corrections ideas. We came to have a great working relationship and a consensus of ideas as a team. We put our staffs to working on ideas to avoid new prison construction.

We have had a long history of judicial oversight of our prisons due to overcrowding, and because of that under Governors Ann Richards and George W Bush we built a lot of prisons. My task was to determine how not to build more and I came to the conclusion that I had only two choices if our prison population met the projections we had from our Legislative Budget Board. My analysis quickly said I had to either let more people out quicker or figure out the way to slow them down coming in. In Texas opening the door was not going to succeed, so the alternative of slowing down the rate people were coming into prison was the only viable approach. In our first approach to legislation we looked at probation and the efforts that could be made in the community to reduce the number of people being sent to prison. We determined the probation organizations in Texas had some good ideas that could slow the growth. As can always be expected this came with the rejoinder that they could do it but it would require more funding. Working with Senator Whitmire we developed legislation to make changes to reduce some probation terms, develop additional specialty courts in Texas with methods to provide better funding, provide greater support for our probation staff by cutting case loads, and several other ideas for programs in our probation departments. The bill passed both houses of the legislature but was vetoed by the Governor. This actually turned out to be a very important and positive thing for us because it prompted us over the next year and a half to look not just at a part of the system, but at the entire system.

We were very conscientious not to take any step we felt would make Texans less safe. Rather, we strove very hard to make them safer while reducing the costs of incarceration and the corrections system. We also were fortunate in Texas to have think tanks and other active groups interested in our efforts that included inmate families, reentry program personnel, crime victims, law enforcement, and others. We started looking at the entire system to devise steps that would keep people from coming to prison or keep them from coming back to prison. As such, our efforts equally addressed both recidivism and initial incarceration. We wanted to keep people from committing crimes that brought them to prison, and we wanted to address the causes that drove people to commit crimes to bring them back to prison. We recognized that there is a chain from school misbehavior to prison and we wanted to break that chain. We discovered there are several places to break the cycle of recidivism and of recruitment of people into crime. Coming from the back to the early stages of the cycle this

includes parole, actions taken while prisoners are incarcerated, probation, initial involvement with the criminal justice system and law enforcement, schools and the juvenile system, and even early family involvement.

At this stage we began to put together a legislative plan. We had found that there were think tanks and organizations really interested in probation so we put them together to look at recommendations to deal with the veto we had received on the first bill and to make recommendations to overcome the Governor's objections. In addition, they were to look at other ideas in the bill and how we could improve on them, and to look at other possible actions in probation that would encourage communities to keep more of the low risk nonviolent felons in the community under community supervision and reduce the numbers of these felons that got to prison. We had members of the Governor's staff, ACLU, Texas Public Policy Foundation and Texas Criminal Justice Coalition and others including our staff going through all of these recommendations.

I had found that there were good ideas (and some bad ideas) on all sides of the political spectrum. We wanted creative ideas to help with this effort so we put together a second group to look at the programs we had and any others that might help in the state. Texas had a good number of programs that had started in the 1990'-s but had either lost steam, lost funding, or were floundering in the system. We asked what programs were working, and we asked for actual data that showed their successes. It is important to point out here that Texas, unlike other states, had a lot of good program data that showed what results the programs achieved. We asked whether the expansion of certain programs could reduce recidivism or keep people from prison. We also asked whether they were getting the public safety results anticipated. In particular we wanted to cancel programs that were not working and reinforce those that were. For example, we had almost 1800 inmates of the state held in county jails. We found that they were not getting the programs they needed for drug addiction nor the education to change their cognitive thinking skills. We heard from prosecutors and defense lawyers that people were sent on to prison for holding because it took six months to get to a drug treatment plan. This second group made recommendations on programs to get us to the adequate number of appropriate beds in the corrections system.

The final group was our statisticians and budget team. We asked them to determine what the results would be in recidivism and movement to prison if we implemented the recommendations? And how much would these expended programs cost? We did not reinvent the wheel. We only put in two programs we did not already have in the state; an alcohol treatment program in prison and a mother and infant program in a small facility in Houston.

In late 2006 our Legislative Budget Board (LBB) came out with a new prediction that said we would need to house 17,770 new prisoners by 2012 if we took no action. At about the same time, we had our predictions well documented that said that for about $241 million we could expand our programs and we would have little or no growth in our prison population for the next five years. We had data that

showed we would have a safer state for less money if we followed our plan. The LBB also included over $530 million in the budget recommendation to build three prisons to hold about a fourth of the 17,700 new prisoners. The other prisons needed would have brought the total bill to around $2 billion. This would be the first wave in new prison spending. We showed our plan to many groups including the Governor, and got the OK to move forward with our ideas in the legislative session. We moved many of them through the Appropriations process in the Appropriations Bill, although we did other things in special pieces of legislation. At the same time we dealt with a huge crisis in our juvenile system, totally revising it in a way that would cut our juvenile facilities in half and remove over 3000 of our 4500 juveniles from the state system. The actions we took have saved our state over 2 billion dollars in the adult system and over 200 million in the juvenile system.

The actual items we implemented included a significant number of Substance Abuse Treatment beds in prison, for use by parole and probation departments. We also added an Alcoholic Treatment program in the Prison. We added Intermediate Sanction Facilities for Probation and Parole that would give them a short term alternative of 2-3 months for recalcitrant probationers and parolees instead of return or direct movement to prison for a longer term. We added money for Mental Health Treatment in the prisons and for those leaving prison since we know that the prisons have turned into a mental health dumping ground. We expanded and supported with funding our specialty courts which work for veterans, mental health prisoners, and drug users, as well as help with newer ideas like Prostitution Courts. We encouraged sending fewer low-level nonviolent offenders to prison.

And the results are as follows:

- The crime rate is now down to 1968 levels;
- Arrest rates are down significantly;
- We have closed 3 prisons and 6 juvenile facilities without any new facility construction;
- We have a lower number of people on Felony Probation;
- We have a significantly lower number of people on Juvenile Probation;
- Our Parole rate when we started was about 24%, this last year it was 36%;
- About 22,000 people a year were approved for Parole (the number was 28,000 last year);
- We brought all 1800 prisoners back from county jails and there are none there now;
- Parole revocations in 2005 were about 11,000 a year (last year it was about 5,900);

Just this month the LBB projected that there will be minimal growth in the prison population for the next six years, lower juvenile populations and static or lower numbers on probation or parole in Texas. And that is assuming the legislature does nothing significant to lower populations further. Not only did we not build new prisons from 2007 to 2013, but we will not need to build any more from now until at least 2019 or beyond.

As an addition, in late 2010 the Texas Public Policy Foundation created the organization Right on Crime as the national conservative voice for criminal justice reform in the United States. This organization is now recognized as one of the great additions to the efforts to bring results and policies forward throughout the country. Led by Marc Levin, Right on Crime has become instrumental in bringing changes to states around the country and rallying conservatives to support this effort. Our signatories include some of the most influential conservatives in the country. We will of course give you a list of all of them. It can truly be said that this program came from the efforts Marc, myself, and many others who worked to implement these ideas in Texas. It would not have happened without our successes.

Some critics have said all we did was go after low hanging fruit. I would say to them that most states and the federal corrections system have not even gone after that. I would challenge all to see and pick the low hanging fruit. The work we are doing has created an atmosphere where many other things can be discussed. I have been called a leprechaun, an aw-shucks type, and laid back. What I am mostly is very proud of our Texas work and how other states are now following our lead.

How does Texas reform apply to the Federal efforts?

The Federal Government has many of the same symptoms that Texas had in 2005 when we started. Those certainly include but are not limited to: a rapidly growing cost for their criminal justice system, a rapidly expanding number of people in the system with projections of additional growth, the building of more prisons, and interest from leaders of the executive branch who see that budgets are growing at an unsustainable level. The Attorney General has pointed out the problem of growth in this section of his budget, and the President has recognized that there may be some people in the system that could be released with little or no danger to the public. The budget request for 2013 is $6.9 billion which is about twice our Texas yearly budget for Corrections. The budget growth was about 4% a year. Remember the words of Speaker Craddick in Texas. "Do not build new prisons, they cost too much." Texas is operating at about 96% of capacity. The Federal System is at about 139% of capacity with those facilities holding the most dangerous offenders at even higher percentages of capacity. These situations lead to dangerous safety concerns in the prisons.

The following are my personal suggestions for the chairman and committee members on what can be learned from our Texas experience.

1. This was a bipartisan effort. Bipartisanship did not come about because of any great revelation; it came about because I got a mission from my legislative leader. To fulfill that mission I looked for the best and most knowledgeable person I could find in the legislature. That happened to be a member of the other party. We forged a partnership in this effort. We both convinced our leaders and other legislators that we had taken a lot of good ideas and had recommendations to implement them that would keep us from having to build (and spend more) on prisons, and would keep us safer and provide opportunities for some people to break the cycle of recidivism.

And it worked because we developed complete trust and confidence in each other. This is now an area - and maybe the only area- where I believe under current conditions that Conservatives and Liberals, Republicans and Democrats, can work together for positive results. We are doing it over and over again in the states. Georgia has passed criminal justice reform with unanimous votes on most of their bills; North Carolina started reform under a Democratic Governor and Legislature and carried it to completion under a Republican Legislature. Mississippi has just passed major reforms with massive bipartisan majorities. Alaska, it was reported, actually had legislators arguing on the floor about who got to be the sponsor in the House of their bipartisan bill. Oregon, Hawaii, Ohio, Pennsylvania, Oklahoma, South Dakota, Idaho, Kentucky and many others have completed bills with substantial bipartisan support. And these actions are supported by great majorities of our citizens on all sides of the political aisle. I have included a chart entitled "Sentencing and Corrections Reforms in Justice Reinvestment States" produced by the Public Safety Performance Project of the Pew Charitable Trusts. It gives a comprehensive summary of the many reforms done in the states.

2. There are now a great number of people working at the federal and state levels with ideas to make our system better. We pulled all of them in Texas together to take all of the ideas; and in free and open discussion, we built a huge trust between these groups. We set ground rules which basically said we were looking for consensus and wanted to move on to those items where most if not all of the groups would be able to say they supported the efforts. None of them got everything they wanted, but all of them got a great hearing on their ideas and were in many cases successful in building very positive relationships. Much to their surprise many of them found that other groups agreed with them. We had to have consensus to put ideas in the bills. Although you have more groups here in Washington, you should bring them together, using the same techniques we used in the states to successfully gather legislative support in the federal system.

3. I would highly advise a good review of programs in the system, like we did, to ask the questions we asked like, "Are they working?" and "Do we get all the people we need to through the programs they need?" I would be prepared to expand some of the programs if you can show that by doing so you could reduce recidivism, as well as be prepared to find out which ones are wasting your money, and eliminate them.

4. Make sure the federal system is primarily aimed at incarceration of the people we are afraid of, not the people we are mad at.

My colleagues Marc Levin and Vikrant Reddy at Right on Crime produced a policy perspective in July 2013 entitled "The Verdict on Federal Prison Reform: State Successes Offer Keys to Reducing Crime and Costs." This was based on our work in Texas. They list 6 Guiding Principles for Genuine Reform of the

Federal System. I will paraphrase them here. The first principle is transparency and the inclusion of performance measures. The second is to ensure that crime victims, the public, and taxpayers are recognized as key consumers of the system. The third is a set of items that should be stressed to ensure that behavioral changes are being addressed in our Correction Department. The fourth idea is to ensure the criminal justice system works to reform as many offenders as possible by harnessing families, charities, faith-based groups, and communities. The fifth is to align incentives in the system with policies to move the system from one that grows because it fails to one that rewards results. And finally, reserve criminal conduct for those that are blameworthy or frighten us but do not use it to grow government and undermine economic and personal freedom.

In addition they list four broad policy recommendations. These four are:

1. Put a greater focus in the federal system on community corrections.
2. Expand good time credits
3. Facilitate reentry and limiting collateral consequences
4. Reverse over-criminalization.

I would add two other recommendations. Congress should take no actions which withdraw funds from projects that are working in Criminal Justice just to encourage or arm twist states to comply with some new federal requirement. I refer to Byrne Grants which work and the withholding of funds to implement other federal programs. Secondly I would try to ensure no criminal penalties could be implemented in rules by agencies. Criminal law should come from the criminal justice codes of the federal government and the states.

I do hope these suggestions have been helpful to the committee and I look forward to working with you.

Jerry Madden
Former Chairman of the Texas House Corrections Committee
Senior Fellow for Right on Crime

Mr. SENSENBRENNER. Thank you very much, Representative. Doctor.

TESTIMONY OF NANCY G. LA VIGNE, Ph.D., DIRECTOR, JUSTICE POLICY CENTER, THE URBAN INSTITUTE

Ms. LA VIGNE. Hi. Good morning. Thanks very much for the opportunity to speak with you today and to testify alongside these gentlemen who have really demonstrated what engaging in responsible prison reform on the ground means and also engaging in evidence-based practice. You are kind of living what the Urban Institute promotes through its own research on what works. So I thank you for that.

Since you have heard about the successes in the States already I don't want to belabor the point too much, but I would like to refer you to this publication that the Chairman referenced in his opening remarks, and that is a report the Urban Institute did assessing the Justice Reinvestment Initiative looking at 17 States. It documents the sweeping reforms that the States have engaged in and the projected impact of those reforms.

That report was released earlier this year, but a few months prior to that the Urban Institute released a report called "Stemming the Tide." In this report we looked at the growth in the Federal system, the drivers of the growth in that system, and a variety of policy changes and the impacts that those changes would have, both on population and cost. So what I would like to do today is to describe that a bit and then talk about lessons learned from the States and how it can be applied to the Federal system.

As we know, the Federal system mirrors the experiences of the States in terms of growth in many ways, although arguably more so compared to many States experiencing a nearly eightfold increase since 1980. That growth has caused severe overcrowding, between 30 to 50 percent, depending on the facility, much higher for the high-security facilities across the BOP.

BOP's budget has been increasing alongside that population growth. It is crowding out other important public safety priorities. The BOP budget has grown at twice the rate of the DOJ budget over time, and yet those budget increases aren't sufficient to maintain staffing. Inmate-to-staff ratios have increased 20 percent since 2000. All of this creates a scenario where you have serious overcrowding that poses a threat to public safety. It poses a threat to safety on the inside, the safety and security of the staff and the inmates who reside there.

But it is also a threat to public safety on the outside because when facilities are crowded you can't offer the programming and treatment necessary to prevent recidivism, so if you can't prevent recidivism you are causing more victimization in the community.

In this report we document the drivers of the growth in the Federal system. It is basically simple math, more people going into prison, staying for longer periods of time. By far drug offenders are the biggest fear of the growth in the system, and this is the population that would yield the biggest impact on any efforts to reduce or slow that growth.

Many solutions have been tested and proven by the States. They are documented here, and we have heard from the prior witnesses

about them. States have slowed prison growth. They have reduced overcrowding. They have saved taxpayers money in the process. And according to a recent Pew Charitable Trust report, these States have experienced declines in the crime rate alongside the States that have not engaged in reform.

So what lessons are transferable to the Federal system? I think it is first important to note that there are differences in the system. The Federal system has a different population, much less violent on average than most State prison populations. It is also the case that the Federal prison isn't driven by supervision violators, as we see a lot in the States.

And yet there are reforms that are transferable, and these are both front-end reforms, as we call them, and back-end reforms. By front-end reforms, I am referring to changes in sentencing policies, who goes to prison, how long is their sentence length. And by back-end, I am talking about earned credit mechanisms that encourage program participation and good behavior. And I don't have to tell this Committee much about those reforms because many of you have signed on to legislation that promotes those reforms on the Federal level, the Smarter Sentencing Act, the Justice Safety Valve Act, the Public Safety Enhancement Act. These acts are looking at both front-end and back-end changes, including reducing mandatory minimums, expanding the safety valve, expanding judicial discretion in a number of ways, and incentivizing inmates to participate in programs and treatments that they can benefit from.

It is also important to acknowledge that there is another kind of front end, and that is embodied in evidence-based practice that looks at the importance of prevention, education, and employment even prior to someone entering the system to encourage them to avoid that altogether.

Thank you for your time.

[The prepared statement of Ms. La Vigne follows:]

Statement of

Nancy G. La Vigne, Ph.D.

Director, Justice Policy Center, Urban Institute

before the

Committee on Judiciary, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations

United States House of Representatives

Lessons from the States: Responsible Prison Reform

Tuesday, July 15, 2014

The views expressed are those of the author and should not be attributed to the Urban Institute, its trustees, or its funders.

Good afternoon, Mr. Chairman, members of the Subcommittee. It is an honor to appear before you to testify about lessons learned from responsible prison reform in the states and ways in which the federal system can follow suit. I am the director of the Justice Policy Center at the Urban Institute. The Urban Institute is a nonprofit research organization focused on social and economic policy. The Justice Policy Center at Urban is made up of over three dozen researchers studying a wide array of crime and justice issues. Our portfolio of research includes evaluations of promising programs, reviews of the literature of "what works" in reducing recidivism, and expertise in cost-benefit analysis. We have a long history of working with federal corrections data and currently serve as the assessment partner on the Justice Reinvestment Initiative, a federally funded program that reduces costs associated with state prison systems while enhancing public safety. This expertise has made us well situated to study the successes of state prison reform, translate those lessons to the federal context, and share our knowledge of evidence-based programs and policies to inform best practice at the federal level, while also projecting the impact of policy changes on prison population reductions and cost savings. I will begin my remarks by highlighting the experiences of the states and then transition to a discussion of the federal system, its challenges, and the opportunities for reform. In doing so, I will discuss the importance of both front- and back-end changes to yield meaningful and lasting reforms.

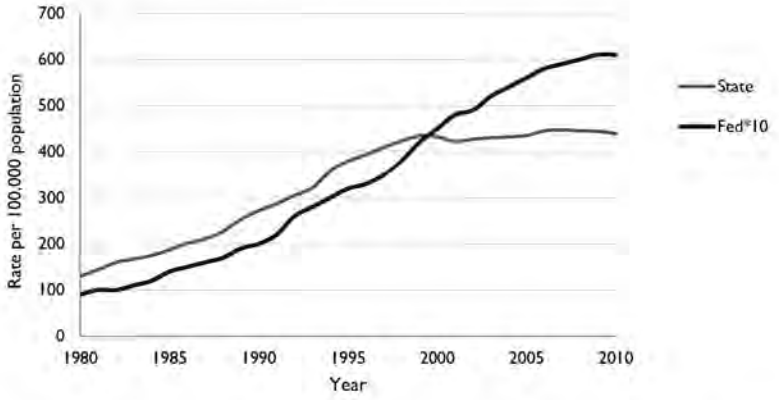
Lessons from the States

Without a doubt, in recent year the states have demonstrated tremendous leadership on correctional reform. As detailed in our recent Justice Reinvestment Initiative (JRI) State Assessment Report,[1] which highlights the experiences of 17 states, this leadership is characterized by (1) a bipartisan commitment to reform; (2) the use of data on current sentencing and corrections practices to inform policy; (3) a focus on responsible reform designed to reserve prison for those who pose the greatest risk to public safety; and (4) the expanded use of evidence-based practices (EBPs). Among these comprehensive reform efforts, many JRI states have slowed prison growth, reduced overcrowding, and saved taxpayers money without sacrificing public safety and other states are projected to do so. The crime rate in almost all of states that have reduced their prison populations has continued to decline.[2]

The experiences of the states can be instructive; as illustrated in Figure 1, the state incarceration rate has remained largely constant for the past decade while the federal incarceration rate has grown by over a third. Given the wealth of information and lessons documented on the state experience in our JRI assessment report, I respectfully request that the report be submitted in its entirety into the record.

[1] La Vigne et al. (2014).
[2] Pew Charitable Trusts (2014).

Figure 1: Trends in State and Federal Incarceration Rates



Source: Bureau of Justice Statistics, Office of Justice Programs, US Department of Justice.

While state prison systems differ significantly from the federal system, many drivers of prison population growth remain the same. These include prison commitments and lengths of stay over time. For example, some of the growth in state systems was driven by increases in truth-in-sentencing requirements, often requiring an 85 percent threshold for violent offenders and some lower threshold for nonviolent offenders. The Violent Offender Incarceration and Truth-in-Sentencing Incentive (VOI/TIS) Grant Program, authorized by the Violent Crime Control and Law Enforcement Act of 1994, further incentivized states to adopt an 85% truth in sentencing threshold with funding to build or expand prisons and jails.[3] Faced with high prison populations and shrinking budgets, however, many states recently revised their time served requirements to allow for earlier release. These states have recognized that certainty, as a crucial attribute in the sentencing process (especially for victims and victims' advocates),[4] is not compromised by lowering time served thresholds as long as the change is well publicized. Given that with very few exceptions federal inmates must serve over 87 percent of their sentence, these policy changes are quite instructive.

Another means by which states reversed lengthy prison sentences is by expanding sentence reduction or early release programs for offenders who comply with prison regulations and programming requirements. At least 31 states offer inmates the opportunity to earn sentence-reduction credits through participation in education, vocational training, substance abuse

[3] Sabol et al. (2002); Ditton and Wilson (1999).
[4] Stith and Koh (1993).

treatment and rehabilitation, and work programs; education and work programs are the most common.[5] These programs vary by programmatic requirements, extent of the credit, and eligibility. Many states factor inmates' compliance with prison rules and regulations into earned time credit calculations.[6] State JRI legislation commonly expanded earned credits, offering sentence reductions to inmates who maintain good behavior or participate in prison programs. In North Carolina, JRI legislation established a new sentencing option—advanced supervised release—that created a reduced sentence for certain offenders who completed risk-reduction programming.[7] In Delaware, JRI legislation reduced lengths of stay by allowing offenders to reduce their time served by up to 60 days a year on the basis of successful completion of recidivism-reduction programs.[8] Louisiana also revised its good time and earned credit statutes: The amount prisoners could earn in sentence diminution for good time was increased. To promote transparency, the rate of earning good time was set at one and a half days of good time earned for every day served.[9]

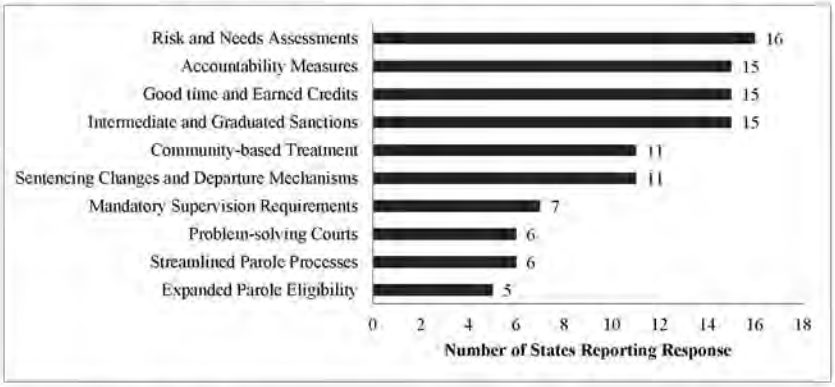
Studies show that sentence reductions or early release resulting from earned and/or good time credits can be a cost-effective method for reducing prison populations at minimal risk to public safety. A review of these programs and public safety measures found no significant differences between the recidivism rates of inmates released early and those who served longer without sentence reductions, credits or earlier release.[10] These programs have also been found to produce significant cost savings.[11] States' experiences can guide efforts to expand and strengthen BOP's earned time, good time, and other early release programs.

Importantly, most of these state reform efforts involve both front- and back-end reforms, as shown in Figure 2. Eleven of the seventeen JRI states profiled in our assessment report included sentencing changes and departure mechanisms in their reform packages. These changes were designed to reorient penalties and reclassify or redefine offenses, revise mandatory minimums (including carving out exemptions for lower level offenders), and expand nonincarceration options. In South Carolina, JRI legislation removed mandatory minimums for first and second drug offenses such as manufacture and distribution where the drug quantity was below a certain weight.[12] In Kentucky, JRI legislation modified the state's Controlled Substances Act by using presumptive probation for first- and second-time drug possession offenses and establishing a quantity-based scale of penalties for drug sales offenses.[13] Arkansas increased the felony theft

[5] Lawrence (2009). Some states also offer additional opportunities for earning earned time credits, such as participation in "special programs," disaster relief or conservation efforts, or by conducting extraordinary meritorious service in prison.
[6] Lawrence (2009).
[7] North Carolina HB 642, 2011.
[8] James and Agha (2013).
[9] Louisiana Sentencing Commission (2012).
[10] Guzman, Krisberg, and Tsukida (2008).
[11] Drake, Barnoski, and Aos (2009).
[12] South Carolina SB 1154, 2010.
[13] Pew Center on the States (2011a).

threshold from $500 to $1,000 to reduce the number of felony convictions for low-level offenders.[14] Other sentencing changes encouraged substance abuse treatment rather than incarceration for certain offenders. In Ohio, JRI legislation expanded the pool of individuals eligible for diversion.[15]

Figure 2: State Responses to Population and Cost Drivers



Source: La Vigne, et al (2014).

As shown in Figure 2, our assessment of JRI states also illustrated how most of these states also embraced evidence-based practices (EBPs) in their reform efforts. These include the use of risk and needs assessments to guide decisions regarding sentencing, release, and program eligibility; the adoption or expansion of problem solving courts; and the investment in programs proven to reduce recidivism. Risk and needs assessments are evidence-based actuarial instruments that determine an individual's risk of reoffense and the types of services and programs that will best reduce the likelihood of reoffending. Through risk-based sentencing, judges can review assessment results when weighing different sentencing options. In Kentucky, JRI legislation required the Department of Corrections to develop an online data system with objective information, including an offender's risk assessment rating, for use in plea negotiations and sentencing.[16] Georgia invested $175,000 to develop a risk assessment tool to assist judges with sentencing by identifying lower risk, nonviolent offenders who could be safely kept out of prison.[17]

[14] Pew Center on the States (2011b).
[15] Ohio HB 86, 2011.
[16] Kentucky HB 463, 2011.
[17] Pew Center on the States (2012a).

Another example of evidence-based practices among states engaged in correctional reform was designed to address growing incarceration rates for low-level offenders. In response, JRI legislation frequently expanded or improved problem-solving courts, a proven approach to providing treatment for offenders with specific needs. Georgia's legislation requires the establishment of statewide policies to guide the operation and certification of problem-solving courts for offenders with substance abuse and mental health disorders,[18] including mandating a drug court certification and peer review process to ensure adherence to EBPs.[19] In West Virginia, JRI legislation mandated expansion of drug courts from 31 to all 55 counties.[20]

Similarly, several states increased funding and expanded the use of evidence-based programs and practices. For example, Georgia, Hawaii, Kentucky, and South Dakota increased funding for substance abuse treatment programs.[21] New Hampshire is training its probation and parole officers and corrections counselors in Effective Practices in Community Supervision.[22] Pennsylvania emphasized the importance of community supports by requiring a reentry plan for every prisoner.[23]

States were also deliberate about using EBPs to improve the effectiveness of community-based supervision and services. Some states mandated that service providers must use EBPs to receive state funds. States also required their own departments to use EBPs to supervise offenders and increased EBP training opportunities. In addition to mandating the use of EBPs, Arkansas raised supervision fees to support community-based programs that use EBPs and to train staff in EBP.[24] Similarly, Pennsylvania rebid all contracts for community corrections centers to allow contractors to be compensated at higher rates if they lower the recidivism rates of parolees in their centers.[25]

The Federal Context

Much can be learned from the experiences of the states. Many states came to table because they realized that sustaining the current rate of incarceration was at great expense to other fiscal priorities. They strove to yield a greater return - both in terms of public safety and public finances - on their investment of correctional expenditures. And they aspired to reserve expensive prison beds for those who posed the greatest risk to public safety. Many states were also experiencing high levels of prison overcrowding that posed hazards to the safety of inmates and staff. In many respects, the experiences of the federal prison system are no different.

[18] Pew Center on the States (2012a).
[19] Georgia HB 1176, 2012.
[20] West Virginia SB 371, 2013.
[21] Clement, Barbee, and Coombs (2011); Pew Center on the States (2012a); Pew Charitable Trusts (2013).
[22] New Hampshire Department of Corrections (2013)
[23] Pennsylvania SB 100, 2012.
[24] Arkansas SB 750, 2011.
[25] Commonwealth of Pennsylvania Department of General Services, Bureau of Procurement (2013).

Over the past several decades, the federal prison population has increased by a factor of eight since 1980; its current population exceeds 216,000,[26] with projections of continued growth for the foreseeable future. This continuous growth has substantial costs. With each passing year, the federal government has had to allocate more resources to the federal prison system at the expense of other critical public safety priorities. Since Fiscal Year (FY) 2000, the rate of growth in the BOP budget is almost twice the rate of growth of the rest of the US Department of Justice (DOJ).[27] Despite increased funding, BOP-operated facilities remain dangerously overcrowded and understaffed,[28] while long waitlists persist for recidivism reduction programs.[29]

A wide array of actors, including members of this Committee, other Members of Congress, the Attorney General, other administration officials, bipartisan policy advocates, and researchers, have concluded that this growth and its associated costs are unsustainable. The basis for this conclusion varies. Factors include

- **Fiscal impact.** Resources spent on the BOP eclipse other budget priorities.
- **Overcrowding risks.** Overcrowded facilities can jeopardize the safety of inmates and staff and limit opportunities for effective programming that can reduce recidivism.
- **Fairness and equity concerns.** High levels of incarceration may have disproportionate effects on certain subpopulations and communities.
- **Inefficient resource allocation.** Current research and recent evidence-based policy changes implemented in states raise questions about the cost-effectiveness of existing federal sentencing and corrections policies.

The high costs of maintaining a growing prisoner population have contributed to the increases in the BOP budget relative to the rest of the DOJ: in FY 2000, BOP took up less than 20 percent of the DOJ budget, but we project that without changes, by FY 2020, it will consume more than 30 percent. In these fiscally lean times, funding the expanding BOP population crowds out other public safety priorities, including funding for federal investigators and federal prosecutors and support for state and local governments.[30]

In early 2014, BOP facilities were operating at 32 percent above their rated capacity, with 51 percent crowding at high-security facilities and 41 percent at medium-security facilities in FY 2012. The capacity of BOP facilities in FY 2013 was 129,726, but BOP-operated facilities

[26] BOP (2014b).
[27] US DOJ, *Summary of Budget Authority by Appropriation*. Budget summaries for fiscal years 2000–13. See, for example, http://www.justice.gov/archive/jmd/2k-summary/2kbudget.pdf (2000); and http://www.justice.gov/jmd/2013summary/pdf/budget-authority-appropriation.pdf (2013).
[28] US DOJ (2014); GAO (2012).
[29] GAO (2012)
[30] *Hearing on Federal Sentencing Options after* Booker: *Current State of Federal Sentencing* (2012) (statement of Matthew Axelrod, Associate Deputy Attorney General).

housed 176,849 inmates in FY 2013.[31] Since FY 2000, the inmate-to-staff ratio has increased by approximately 20 percent.

Recent efforts to reduce the federal population, including the passage of the Fair Sentencing Act and the shift from mandatory to advisory sentencing guidelines, have slowed the rate of growth in the federal prison population. But barring any meaningful changes in policy and practice, this untenable status quo will be the norm for the coming decade: more recent BOP projections that take into account the recent slowing of prison population growth still anticipate that by FY 2019, the system will be 41 percent overcrowded, housing over 55,000 more people than its system capacity.[32]

Beyond the fiscal problems associated with maintaining such a large federal prison population, overcrowding threatens the safety of inmates and prison staff and undermines the ability to provide effective programming.[33]

- Overcrowding is most concentrated in high-security facilities, where 87 percent of inmates have a history of violence. Overcrowding is currently above 50 percent in high-security facilities.[34]

- The BOP has found that high inmate-to-corrections officer ratios are correlated with increases in the incidence of serious assault.[35] In February 2013, a BOP officer was killed for the first time in five years, while working alone in a unit housing 130 inmates.[36]

- Provision of programming and treatment designed to reduce recidivism is restricted due to lack of space, inadequate staff, and long waiting lists for educational, treatment, vocational, and other reentry programming.[37]

- Health and safety hazards increase from over-used equipment, such as toilets, showers, and food service equipment.[38]

Given the detrimental effect of this continued growth on prison conditions, inmate and staff safety, and the ability to provide recidivism-reducing programming and treatment, it is critical that options be explored that avert future expansion of this already bloated system.

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[31] US DOJ (2014). This represents the prison populations and capacity as of February 27, 2014. The population ebbs and flows throughout the year as prisoners are released and new offenders are admitted.
[32] US DOJ (2014).
[33] GAO (2012).
[34] US DOJ (2014).
[35] BOP (2005).
[36] Kalinowski and Halpin (2013).
[37] GAO (2012).
[38] GAO (2012).

Drivers of Federal Population Growth

The number and composition of offenders committed to federal prison result from the investigations pursued by law enforcement, cases accepted and charged by prosecutors, the dispositions of those cases, the proportion of convicted offenders that receive a term of imprisonment, and the imposed sentence.

The BOP does not play a role in these decisions: the combination of the volume of admissions and sentence length drives the inmate population. The length of stay is largely determined by the sentence imposed (informed by the relevant statutory penalties and federal sentencing guidelines)[39] and any subsequent sentence reductions that would reduce time served in prison. Currently few options for reduced time exist, and most federal offenders sentenced to prison serve at least 87.5 percent of their terms of imprisonment.[40]

The length of sentences—particularly for drug offenders, many of whom are subject to mandatory minimum sentences—is an important determinant of the size of the prison population and driver of population growth. Our 2012 study of the growth in the BOP population from 1998 to 2010 confirmed that time served in prison for drug offenses was the largest determinant of population growth.[41]

While state lessons provide insights and guidance, it is important to recognize key differences between the state experiences and problems facing the federal system:

- Over half of state prisoners have committed violent crimes,[42] while roughly the same share of federal prisoners are drug offenders, and many others are immigration offenders.[43]
- Supervision violations are the most common driver of state correctional population growth, yet did not emerge as a driver in our federal analyses.[44]

These differences, and others, have crucial implications in applying the JRI model to the federal level, suggesting that policies focused on diverting and/or reducing sentences for drug and immigration offenders are most likely to yield the greatest returns. Changes in sentencing laws (particularly mandatory minimums) and practices (including prosecutorial charging and declination practices), prison release policies, or both could directly decrease the time served and thereby moderate federal prison population growth.

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[39] Recent legislative and policy changes to this domain may have the combined effect of reducing sentence length: for example, the shift from mandatory to advisory sentencing guidelines and enactment of the Fair Sentencing Act could moderate sentence lengths.
[40] There are limited opportunities for some offenders to have their sentences reduced below 87.5 percent, based on prison participation in residential drug treatment programming and, in some cases, compassionate release.
[41] Mallik-Kane, Parthasarathy, and Adams (2012).
[42] Carson and Golinelli (2013).
[43] BOP (2014).
[44] La Vigne and Samuels (2012).

Given that the federal prison population is driven by the volume of admissions and sentence length, any attempt to address prison overcrowding and population growth that relies exclusively on back-end policy options to shorten length of stay, while meaningful, would not be sufficient. *We find that a combination of both front- and back-end policies will be necessary to reduce population growth in both the short and long term.* A bipartisan coalition of lawmakers has taken up this issue, proposing various legislative proposals that could go a long way in stemming the tide of federal prison population growth. We have analyzed the projected impact of these legislative proposals along with other possible policy changes in a 2013 report, *Stemming the Tide: Strategies to Reduce the Growth and Cut the Cost of the Federal Prison System.*[45] The report chronicles the rampant increase in the size and cost of the federal prison system and reviews 20 policy options designed to reduce the prison population while maintaining a focus on public safety. Many of those options reflect legislative proposals introduced or sponsored by you and your colleagues. Our overarching conclusion is that it will require changes to both sentencing and release policies to reduce the federal prison population to levels that are within their rated design capacity. Doing so can save billions of dollars that could be dedicated to other important justice priorities, including programming and treatment to help federal prisoners lead law abiding lives Rather than repeating them all here, I respectfully request to submit that report as part of the official record.

A Focus on Prevention

In reviewing the array of policy options to reduce the size and expense of the federal prison system responsibly, it is important to acknowledge the critical role that prevention plays in both public safety and correctional reform. A large and growing body of evidence indicates that programs to prepare inmates for employment, address substance addiction, and maintain and enhance family relationships are critical to reducing the likelihood of recidivism following their release. Much of this evidence is embodied in the What Works in Reentry Clearinghouse,[46] developed by the Urban Institute in partnership with the Council of State Governments' Justice Center as part of the Second Chance Act's National Reentry Resource Center.[47] For example, the Clearinghouse found positive effects for many substance abuse treatment programs, including the BOP's Residential Drug Abuse Program,[48] Connecticut's substance abuse treatment tier programs,[49] and Minnesota's chemical dependency treatment program.[50] Several prison industries programs were found to be effective, including the federal prison system's UNICOR program,[51] as were work release programs in Florida[52] and Washington[53] and a number of educational and vocational programs, particularly postsecondary and adult basic education.

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[45] Samuels, La Vigne, and Taxy (2013).
[46] http://whatworks.csgjusticecenter.org.
[47] http://csgjusticecenter.org/nrrc.
[48] Pelissier et al. (2002).
[49] Daley et al. (2004).
[50] Duwe (2010).
[51] Saylor and Gaes (1992).

Importantly, studies of in-prison visitation found that inmates who receive visits from family members while incarcerated have reduced rates of recidivism compared to those who do not, even when statistically controlling for other differences between these groups.[54] This finding is consistent with the Urban Institute's reentry studies, which have found that families are an important positive influence in the reentry process, with higher levels of family support linked to higher employment rates and reduced recidivism following release[55] and that in-prison contact with family members is predictive of the strength of family relationships following release.[56]

It is important to note that many of the prison programs found to be effective in reducing reoffending and substance abuse are also cost-effective. Welsh's review of cost-benefit analyses of reentry programs[57] found that 12 of 14 evaluations of reentry programs resulted in positive benefit-cost ratios, and a comprehensive review conducted by Aos yielded similar findings.[58] In an Urban Institute evaluation of the Maryland Reentry Partnership Initiative,[59] we found that the effort returned three dollars in benefits for every dollar in new costs. Another Urban study[60] found that jail reentry programming is cost-beneficial if the programming results in at least a 2 percent reduction in recidivism.

These findings make a strong case for the federal prison system to expand programming to serve all the prisoners who can benefit from it, especially given that federal treatment and prison industries programs feature prominently among the most effective reentry programs that have been rigorously evaluated. Doing so, however, requires a reduction in the prison population to relieve overcrowding and the shifting of resources saved from population reduction toward program and treatment delivery. States across the country have done exactly that, offering examples and lessons learned that the federal system could benefit from following.

Conclusions

The BOP population has increased drastically since 1980. If current trends persist, spending on prisons will continue to squeeze taxpayers for billions of dollars annually and eclipse other spending priorities, such as federal investigators and prosecutors. Continued overcrowding means that even fewer inmates will have access to reentry programming designed to reduce recidivism and that prison facilities will become even more dangerous for prisoners and correctional officers alike. The current status quo is untenable and it is anticipated to get even worse.

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[52] Berk (2007).
[53] Drake (2007).
[54] Bales and Mears (2008); Derkzen, Gobeil, and Gileno (2009).
[55] La Vigne, Visher, and Castro (2004); La Vigne, Shollenberger, and Debus (2009).
[56] Naser and La Vigne (2006).
[57] Welsh (2004).
[58] Aos (2006).
[59] Roman et al. (2007).
[60] Roman and Chalfin (2006).

The federal government can learn important lessons from states and localities that have adopted justice reinvestment to improve public safety in a cost-effective manner. First, bipartisan collaboration and data-driven policy development has helped states overcome political and philosophical differences that can hinder meaningful justice system reform. Second, as documented in Urban's Justice Reinvestment Initiative State Assessment Report, EBPs intended to address population and cost drivers have thus far yielded promising results.[61] States are implementing strategies that focus scarce prison resources on the most serious offenders and provide effective alternatives for lower-level, non-violent offenders.

BOP has limited discretion and authority in reducing its burgeoning population, and even if its authorities increase, most of the savings from back-end options under the perview of the BOP are limited. Most options for significantly reducing the population would require statutory changes or changes in policies by investigators, prosecutors, judges, and probation officers; it is heartening that so many Members of Congress are advanceing cross-cutting and innovative proposals to address this problem.

Our previous research has shown that lengthy drug sentences have been the biggest driver of growth in the federal prison population, and our report confirms that the most direct and effectual methods of decreasing the prison population target drug offenders specifically. Indeed, the only policy change that would on its own eliminate overcrowding altogether is reducing certain drug mandatory minimums. Other promising front-end changes include changing truth-in-sentencing requirements, reducing the number of offenders entering the federal prison system for drug offenses, and providing judges more discretion in departing below mandatory minimums.

At the same time, back-end changes targeting inmates already in BOP facilities could immediately reduce overcrowding and save money. Options such as granting the statutory changes of the Fair Sentencing Act retroactively to nonviolent inmates deemed at little risk to public safety, changing the formula by which good time credits are calculated for inmates already in BOP custody, bringing RDAP to scale, and providing some type of expanded programming credit for other recidivism reduction programs would help reduce overcrowding while not harming public safety. BOP is already reviewing and expanding its existing authorities, which will generate further savings.

Aggressive action is needed to stem the tide of prison population growth: I hope that my testimony and the accompanying Urban Institute reports illuminate the drivers of federal prison population growth and potential solutions that go beyond stemming the tide of growth toward actually reducing the prison population over the coming decade. One of our key findings is that in order to alleviate dangerous conditions immediately and continue to slow growth, a combination of front- and back-end policies will be necessary. Many states have done so and are already reaping the benefits of cost savings while also improving public safety.

[61] La Vigne et al (2014).

Thank you for the opportunity to testify today. I would be pleased to answer any questions you may have.

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Mr. SENSENBRENNER. Thank you very much, Doctor.

The Chair will withhold his questions till the end. The gentleman from North Carolina, Mr. Coble, is recognized for 5 minutes.

Mr. COBLE. Thank you, Mr. Chairman.

It is good to have you all with us today.

Senator Ward, Alabama has just passed a statute authorizing the Alabama Prison Reform Task Force at an earlier stage in the Justice Reinvestment Initiative process with other States. Are there certain States that you are looking for to serve as leaders in this model, and what reforms do you think have been most effective in those States?

Mr. WARD. Congressman, I would say, first and foremost, I look to my friend Representative Madden down here from Texas. I think they are the model probably for reforms across the country. As I have said before, there is really no silver bullet answer to the question of what is going to solve the prison problem. I think that the answer comes about in many facets. Most importantly, as I said before, one, your community corrections program; two, drug courts; and, three, mental health courts. All those provide tools not only for the front end, before incarceration has to occur, but also on the back end, and reduces recidivism rate and is also cheaper on the taxpayers.

I think the more that we utilize those programs, the less you are going to have a turnaround of someone coming back into the system, and that is the key for everyone. If you can reduce recidivism, in the long run you will reduce your prison population. I think Texas has been a model reform for that. Most recently other States have also adopted it, prison ministry work in Georgia. We have seen also a new pardon and parole data-sharing process in Mississippi which has been very successful. Also, community correction incentives, where incentives are given to community correction programs that show a higher reduction in recidivism rates. Then the financial reward for those programs are rewarded through the budget process, as they are doing in Arkansas.

So there are a large number of options out there. However, I would have to point to Texas being the model for the rest of the country, and it is due to the Justice Reinvestment Initiative.

Mr. COBLE. Thank you, Senator.

Each of you I think mentioned the enormous cost involved. If these reform programs result as hoped would be the case, it seems to me that savings could be realized. Am I missing the mark when I say that?

Mr. WARD. Not at all.

Mr. MADDEN. Not at all.

Mr. COBLE. I mean, recidivism and overcrowding are two issues that continue to plague us, and they are obviously related.

Doctor, does the BOP currently perform a risk assessment of its inmates for purposes of administering recidivism-reducing programs or determining the likelihood to re-offend.

Ms. LA VIGNE. My understanding is that the BOP does use risk in these assessments for some purposes. I don't know the details of how they are used to guide who gets what types of programs or treatment.

Mr. COBLE. Anybody else want to weigh in on that?

Mr. MADDEN. I was just going to weigh in on your previous question about States that are examples, though.

Mr. COBLE. Fire away.

Mr. MADDEN. I will follow on that because North Carolina did some wonderful work also in their things, and they are an example that I use nationally when talking to States about what they did in their technology aspects for their probation and parole divisions. They really have done some creative work there that has caused a reduction in their prison populations also.

Mr. COBLE. On that, your favorable note to my home State is appreciated.

And I yield back, Mr. Chairman.

Mr. MADDEN. I was honored, as a matter of fact, to be there when the governor and the speaker and your senate pro tem leader decided to go ahead and start that. I was actually in the room with them at that time, about five of us.

Mr. COBLE. And I will convey that when I go back home. Thank you, sir. Thank you all for being here.

Mr. SENSENBRENNER. Gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, one of the themes we have heard from all of the witnesses is a reliance on research and data rather than slogans and sound bites.

Senator Ward, can you say a word about the applied research service and what they do for you?

Mr. WARD. Yeah, absolutely. The problem with corrections traditionally has been the policymakers, you and I. We take it upon ourselves what sounds good, as you said, the policy sound bites. Can I lock them up and throw away the key because it fits on a bumper sticker, and guess what, it win elections. And that is unfortunate, and that is how we got in the circumstances we are in today.

Applied research in short takes a data-driven approach to corrections. It determines this particular offender, what classification should they be classified in with regard to their sentencing guidelines? Are they perhaps eligible for, due to their background, due to their education level, due to the circumstances of their act, are they eligible perhaps for community corrections instead of incarceration?

The data-sharing actually goes on throughout all the correctional facilities in Alabama. Therefore, it is a broad-based view of each individual inmate to determine what level of incarceration is maybe more appropriate and is an alternative sentencing program possibly better for this inmate. That is how it works in Alabama, and I think that is a big part of the Justice Reinvestment Initiative as well, and that is what they try to promote, is instead of policy or a debate by your heart, it is more about data driven through your head as to what is more logical.

Mr. SCOTT. And you and Mr. Wetzel talked about the triage going in, assessing people. How does that work if you are saddled with mandatory minimums and no parole?

Mr. WARD. And I have to tell you, I think the notion of—that is one of the problems how we got where we are—the no parole, particularly for the nonviolent offenders. You have to look at a change

in your parole policies. In Alabama, for example, we have 53,000 offenders currently under the supervision of our Boards of Pardon and Parole today. That is actually 200 offenders per individual caseworker. The national average is 75 offenders per caseworker. The no-parole notion for nonviolent offenders particularly, it just doesn't work. In my opinion, that is one part of the broken system we are in today.

Mr. SCOTT. Now, what effect does overcrowding have on the effectiveness of job training and education programs in the prison?

Mr. WARD. It has a huge impact because what has happened is, as society has looked around and States are having shortfalls in all their budgets, what has happened is, as we have had to cut back on K through 12, it is very hard to go back home and sell politically, well, but we have got to invest more in prison education. The overcrowding problem, what it has created is, you have so many inmates that you actually don't have, one, the physical plant facilities to provide the education, skill opportunities they need. But, two, it has created a situation where you are spending so much money on the actual incarceration, the feeding, and the health care, that the education component is being left aside, and that, in my opinion, is what leads to a higher recidivism rate as well.

Mr. SCOTT. Thank you.

Ms. La Vigne, you had mentioned reinvesting the savings in some of these programs. One of the problems and challenges is the people saving the money aren't the people making the investment. And so you make the investment and then somebody else saves the money. How do you recapture the savings in that scenario?

Ms. LA VIGNE. That is a tremendous challenge, I think, that the States are experiencing, and many of them are handling that by actually engaging in what we call up-front reinvestment, so that at the point of passing legislation where they know that their projections show that the policy changes will yield meaningful reductions in populations and thus yield savings, at that very same time they will say, let's right now use those anticipated savings and dedicate them to activities like treatment, diversion programs, more supervision, et cetera.

Mr. SCOTT. You mentioned front end, kind of dual front end, one, front end after conviction but also the very early primary prevention and early intervention. How do you recapture those savings?

Ms. LA VIGNE. So capturing savings from very, very early prevention efforts is very difficult to do, and it is not usually something we discuss when we talk about justice reinvestment because justice reinvestment is largely about averting growth or reducing the prison population, yielding savings that way. I am not aware of people who have actually looked at early prevention programs and looked at how cost beneficial they are, but we at the Urban Institute have looked at various recidivism reduction programs and have found that several of them are, indeed, cost beneficial.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. SENSENBRENNER. The gentleman's time has expired.

The gentleman from Utah, Mr. Chaffetz.

Mr. CHAFFETZ. I Thank the Chairman.

And thank you all for being here. It is a very important topic. It is something that literally affects millions of people and yet

doesn't always rise to the tier one level that it should. I believe it is one of the core things that government should and has to be involved with. So your expertise and your participation here today, we certainly do appreciate it.

Mr. Chairman, I ask unanimous consent to enter into the record two articles. One is by Mr. Newt Gingrich and Pat Nolan, "An Opening for Bipartisanship on Prison Reform," as well as a Salt Lake Tribune op-ed, "A Better Way Than Filling Jails with Nonviolent Offenders," by Kirk Jowers, that was published on July 13.

Mr. SENSENBRENNER. Without objection.

[The information referred to follows:]

An Opening for Bipartisanship on Prison Reform

Most federal inmates are not violent offenders, and prison costs are projected to reach $6.9 billion in fiscal 2014.

By
NEWT GINGRICH And
PAT NOLAN
July 14, 2014 7:21 p.m. ET

Congress returns to Capitol Hill this week, but there's little reason to expect substantial legislation between now and the November election. In one policy area, however, Congress can and should act now: reforming the federal prison system.

Half of all federal inmates are incarcerated for drug offenses, not violent crimes. The federal prison population, currently 216,381, according to the Federal Bureau of Prisons, is expected to increase by 5,400 in fiscal years 2013-14. Prison costs are projected to reach $6.9 billion in fiscal 2014, up from $4.4 billion in 2001. The Justice Department's inspector general said in a 2013 performance report that the costs are "unsustainable" and are squeezing out spending for the Federal Bureau of Investigation, federal prosecutors, counterterrorism agencies and other crime-fighting efforts.

States are facing the same cost explosion. Prisons are the second-fastest-growing item in state budgets—second only to Medicaid, according to research conducted by the Pew Center on the States. Several states have passed meaningful reforms, including expanding drug courts to order mandatory drug treatment programs, increasing funding for drug and mental-health treatment, and limiting costly prison beds to violent and serious repeat offenders. These state reforms passed in part thanks to conservative support.

Right on Crime, a national organization founded in 2010 that we both belong to, is helping spread the word that backing sensible and proven reforms to the U.S. criminal-justice system is a valuable conservative cause.

On a panel at the annual Conservative Political Action Conference in March in National Harbor, Md., Texas Gov. Rick Perry explained how reform worked in his state. In 2007, Texas scrapped plans to build more prisons, putting much of the savings into drug courts and treatment. The results have been impressive: Crime in Texas is at the lowest rate since 1968. The number of inmates has fallen by 3%, enabling the state to close three prisons, saving $3 billion so far. What inspired the reform, Gov. Perry said, was this: "Being able to give people a second chance is really important. That should be our goal. The idea that we lock people up, throw them away, never give them a chance at redemption is not what America is about."

Enlarge Image

Associated Press

In 2010, South Carolina followed Texas' example, toughening penalties for violent criminals while creating alternatives to incarceration for nonviolent offenders. These included providing community drug treatment and mental health services for lower-level lawbreakers—mostly drug and property offenders—who made up half of the state's prison population. South Carolina also increased funding for more agents to supervise offenders in the community. Three years later, the prison population has decreased by 8%, and violent offenders now account for 63% of the inmate population. South Carolina's recidivism rates also are much improved and the state has closed one prison.

Other states—Ohio, Georgia, Oklahoma, Kentucky, Missouri, Pennsylvania and Mississippi—have adopted similar reforms. As is so often the case, the states are showing the way. Congress should apply these common-sense reforms to the federal prison system.

The reforms have developed in the states, as conservatives tend to prefer. But now that there is proof that prison reform can work, the debate has gone from an ideological discussion to evidence-based changes that can be applied to the federal system.

Republican Sens. John Cornyn and Ted Cruz, who have seen the benefits firsthand in Texas, have been joined by Republican Senate colleagues such as Rob Portman, Marco Rubio, Mike Lee, Jeff Flake and Ron Johnson in backing one or more prison-reform bills. Two bills, the Recidivism

Reduction and Public Safety Act (S. 1675) and the Smarter Sentencing Act (S. 1410) have already passed the Senate Judiciary Committee and await action by the full Senate.
In the House, Republican Reps. Jason Chaffetz, Raúl Labrador, Trey Gowdy and others are backing similar legislation.

This push for reforming the federal prison system has support on the other side of the aisle as well. Such liberal stalwarts as Sens. Dick Durbin, Patrick Leahy and Sheldon Whitehouse, and Reps. John Conyers, Bobby Scott and Jerrold Nadler have signaled their backing.

On Tuesday, the House Subcommittee on Crime, Terrorism and Homeland Security will hear from witnesses who are experts on state reforms. With luck, their testimony will provide even more impetus for Congress to take advantage of the unusually strong bipartisanship in the air on Capitol Hill and fix a criminal-justice system badly in need of repair.
Mr. Gingrich, a former Speaker of the House of Representatives, is a co-host of CNN's "Crossfire." Mr. Nolan, a former Republican leader of the California State Assembly, is director of the Center for Criminal Justice Reform at the American Conservative Union Foundation.
Correction
An earlier version referred incorrectly to Rep. Bobby Scott as Tim Scott

The Salt Lake Tribune

Op-ed: A better way than filling jails with nonviolent offenders

BY KIRK L. JOWERS

PUBLISHED: JULY 13, 2014 10:19PM
UPDATED: JULY 13, 2014 10:19PM

University of Utah Hinckley Institute of Politics Director Kirk Jowers, with a portrait of first Hinckley director J.D. Williams over his shoulder, has won the backing of school officials in a dispute over a political donation.

Across the nation, policymakers are revising age-old approaches to incarceration. In the last five years, 26 states have reduced crime rates and prisoners behind bars, saving billions of taxpayer dollars without compromising public safety. The consensus of decades past—that more prisons, and prisoners, mean less crime—has shifted to embrace a better, data-driven way of keeping our streets safe. Unfortunately, Utah's criminal justice system is falling behind.

While Utah has historically kept its incarceration rate moderately low, our prison population grew by 22 percent over the past 10 years. This can be partially attributed to locking up more dangerous, violent criminals and sex offenders (a critical purpose of prison and a justifiable cost). But state data reveal that we are sending more nonviolent offenders to prison than we did a decade ago and we are keeping them behind bars for longer periods.

This trend bucks a robust body of research showing diminishing public safety returns when we lock up more and more nonviolent offenders. It also comes at a huge cost to the taxpayer. Last year alone, Utah taxpayers spent roughly $270 million on our corrections budget. Absent reform, we are on target to increase our prison population by another 37 percent—some 2,700 new prison beds—in the next two decades.

About four years ago, I was astounded when I saw a simple chart comparing California's spending on prisons and higher education, which piqued my interest in the topic. The chart formed an almost perfect "X" from 1980 to 2010: prison spending rapidly accelerated as higher education spending fell dramatically. Today the situation is even worse; despite Gov. Jerry Brown's efforts to reform the increasingly overcrowded system, California has spent $2 billion more on prisons than it did in 2011. At the same time, California college students continue to see double-digit tuition hikes because of reduced state commitment/ability to fund higher education. This troubling trend is clearly not sustainable for California or any other state headed in that direction.

There is a better approach that's been proven to work. The past three decades have brought advances in working with nonviolent offenders, including improved probation and parole supervision, drug and mental health courts, better technology to monitor offenders outside of prison and highly trained law enforcement. When nonviolent offenders have access to these alternatives, they are less likely to return to prison and are better equipped to re-enter society as law-abiding citizens — all while saving valuable taxpayer dollars.

Accordingly, I was heartened to see leaders from all three branches of our state government announce their commitment to increase public safety while reducing corrections spending. In a collective call to action, Gov. Gary Herbert, Senate President Wayne Niederhauser, Speaker Becky Lockhart, Chief Justice Matthew Durrant and Attorney General Sean Reyes directed the inter-branch Commission on Criminal and Juvenile Justice to develop comprehensive recommendations for reform. The commission will partner with national experts in criminal justice policy, including the Pew Charitable Trusts' Public Safety Performance Project, to assess the state's practices and review the latest research on reducing recidivism and crime. This fall, the commission will roll out a reform package to cut back on corrections spending, avoid additional prison growth and invest tax dollars in targeted strategies proven to reduce reoffending.

By taking on this task, Utah aims to join a diverse list of states that have achieved more public safety at a lower cost to taxpayers, including Georgia, Mississippi, South Dakota and Texas. Indeed, states have been so successful at safely controlling prison growth that Congress is now considering similar reforms (including bills sponsored by Utah Rep. Jason Chaffetz and Sen. Mike Lee) for nonviolent offenders in the federal prison system.

Today's call for change sends the message that we must hold corrections spending to the same standard as any other area of government. I agree with state leaders that we can make smarter public safety investments. Where alternatives to prison are more effective at reforming nonviolent offenders, we should use them—even better when those alternatives also cost much less, freeing up more dollars for other priorities such as higher education.

Kirk L. Jowers is director of the University of Utah's Hinckley Institute of Politics and a partner in the Washington, D.C., law firm of Caplin & Drysdale.

Mr. CHAFFETZ. Mr. Madden, I would like you to talk a little bit about—and then Mr. Wetzel if we could—about risk assessments. Do they really work? I mean, you have somebody who has come into prison. Can you very quickly go through this assessment process? How does it work? What is your experience with it? And how do we make the most of it?

Mr. MADDEN. They actually work—they can work very well if you use the right ones. There are a lot of risk assessment tools that are out there. I always say to everybody, I am not sponsoring any one risk assessment tool because there are a whole a lot of different ones, but to come down at least on one that you are consistent with in your State and use that, and it is a great tool.

Now, that is the one thing. There were two things that now happen in justice reinvestment actions throughout the States that we really didn't put in, in Texas, to start with because we were two legislators that were wandering, so to speak, in the dark. We didn't have the Pew people. We didn't have the Council of State Governments like all these guys had. We were just us doing what we thought was the best thing in the criminal justice system.

We did not do the risk assessment thing, and it has been put in later, in later legislative sessions than what we started in 2007, but it is one of the two things that I tell the States that they all need to have and they all need to do, is have a risk assessment tool. They really do work. And you should use it as often in the cycle as is really fiscally responsible. You should do it when a person is first arrested, when they go before the judge the first time, when they go to probation, et cetera, et cetera, and in the prison system, too.

Mr. CHAFFETZ. Thank you. I want to get to Mr. Wetzel, please.

Mr. MADDEN. I was going to say in the prison system in particular, you could do it when they first come, and you should do it in subsequent periods of time while they are there. And there is two things on risk assessment——

Mr. CHAFFETZ. Hold that thought for a second. I do want to follow up with you, but I am going to run out of time if I don't allow Mr. Wetzel to jump in.

Mr. MADDEN. I understand.

Mr. WETZEL. Yeah, absolutely. Sometimes the notion of risk assessment, people act like it is a new thing, but I am pretty sure an 18-year old young man pays higher car insurance than my 82-year-old mom who drives a VW bug, right? Why? Actuary risk assessment.

Mr. CHAFFETZ. You got an 82-year-old mother who drives a VW bug, really?

Mr. WETZEL. I do. I do. Slowly.

Mr. CHAFFETZ. With you in it? I would like to see that. All right. Keep going.

Mr. WETZEL. So risk assessment has been around forever. Applying it to this and having an understanding of who comes in your system, every system does that. Every system does something when someone comes in.

Mr. CHAFFETZ. All right. But what works and what doesn't work?

Mr. WETZEL. What works is actuarial risk assessment, so it is research-based, and it identifies both the risks that the individual

presents and also their needs. And then the rub, though, is that you have programming that addresses those needs, especially the criminogenic needs that are able to be impacted, like addiction, criminal thinking, those kinds of things.

Mr. CHAFFETZ. Thank you. I have introduced, and many of the Members here on this panel have helped cosponsor a bill, H.R. 2656, the "Public Safety Enhancement Act of 2013." I do think it is time for Congress to take a much more proactive role in pushing the Bureau of Prisons in this direction. I appreciate panel members on both sides of this aisle in helping that. Perhaps as a follow-up, if you all could look at this legislation and help us get your feedback, we would certainly appreciate it.

[The bill, H.R. 2656, follows:]

I

113TH CONGRESS
1ST SESSION

H. R. 2656

To enhance public safety by improving the effectiveness and efficiency of the Federal prison system with offender risk and needs assessment, individual risk reduction incentives and rewards, and risk and recidivism reduction.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2013

Mr. CHAFFETZ (for himself, Mr. SCOTT of Virginia, Mr. CONYERS, Mr. COBLE, Mr. MARINO, Mr. SCHIFF, and Mr. JEFFRIES) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To enhance public safety by improving the effectiveness and efficiency of the Federal prison system with offender risk and needs assessment, individual risk reduction incentives and rewards, and risk and recidivism reduction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Enhancement Act of 2013".

SEC. 2. PURPOSES.

The purposes of the Act are to—

(1) enhance public safety by improving the effectiveness and efficiency of the Federal prison system, and to reduce the recidivism rates of Federal offenders;

(2) establish offender risk and needs assessment as the cornerstone of a more effective and efficient Federal prison system;

(3) implement a validated post-sentencing risk and needs assessment system that relies on dynamic risk factors to provide Federal prison officials with a roadmap to address the individual criminogenic needs of Federal offenders, manage limited resources, and enhance public safety;

(4) enhance existing recidivism reduction programs and prison jobs by incentivizing Federal prisoners to reduce their individual risk of recidivism by participating and successfully completing such programs, and by satisfactorily holding such jobs over time;

(5) reward Federal prisoners who actually reduce their individual risk of recidivism by providing them with the ability to earn and accrue time credits, and to transfer into prerelease custody when they are assessed as low risk and have earned sufficient time credits;

(6) expand the implementation of evidence-based intervention and treatment programs designed to reduce recidivism, including educational and vocational training programs, and prison jobs, so all Federal prisoners have access to them during their entire terms of incarceration;

(7) perform regular outcome evaluations of programs and interventions to assure that they are evidence-based and to suggest changes, deletions, and expansions based on the results; and

(8) assist the Department of Justice to address the underlying cost structure of the Federal prison system and ensure that the Department can continue to run our prisons safely and securely without compromising the scope or quality of the Department's many other critical law enforcement missions.

SEC. 3. DUTIES OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General shall carry out this section in consultation with—

(1) the Director of the Bureau of Prisons;

(2) the Director of the Administrative Office of the United States Courts;

(3) the Director of the Office of Probation and Pretrial Services; and

(4) the Director of the National Institute of Justice.

(b) DUTIES.—The Attorney General shall, in accordance with subsection (c)—

(1) develop an offender risk and needs assessment system in accordance with section 4;

(2) develop recommendations regarding recidivism reduction programs and productive activities in accordance with section 5;

(3) conduct ongoing research and data analysis on—

(A) the best practices relating to the use of offender risk and needs assessment tools;

(B) the best available risk and needs assessment tools and the level to which they rely on dynamic risk factors that could be addressed and changed over time, and on measures of risk of recidivism, individual needs, and responsivity to recidivism reduction programs;

(C) the most effective and efficient uses of such tools in conjunction with recidivism reduction programs, productive activities, incentives, and rewards; and

(D) which recidivism reduction programs are the most effective—

(i) for prisoners classified at different recidivism risk levels; and

(ii) for addressing the specific needs of prisoners;

(4) on a biennial basis, review the system developed under paragraph (1) and the recommendations developed under paragraph (2), using the research conducted under paragraph (3), to determine whether any revisions or updates should be made, and if so, make such revisions or updates;

(5) hold periodic meetings with the individuals listed in subsection (a) at intervals to be determined by the Attorney General; and

(6) report to Congress in accordance with section 6.

(c) METHODS.—In carrying out the duties under subsection (b), the Attorney General shall—

(1) consult relevant stakeholders; and

(2) make decisions using data that is based on the best available statistical and empirical evidence.

SEC. 4. POST-SENTENCING RISK AND NEEDS ASSESSMENT SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall develop and release for use by the Bureau of Prisons

an offender risk and needs assessment system, to be known as the "Post-Sentencing Risk and Needs Assessment System" (referred to in this Act as the "System"), which shall provide risk and needs assessment tools (developed under subsection (b)) in order to, for each prisoner—

(1) classify the recidivism risk level of prisoners as low, moderate, or high as part of the intake process, and assign the prisoner to appropriate recidivism reduction programs or productive activities based on that classification, the prisoner's specific needs, and in accordance with subsection (c);

(2) reassess the recidivism risk level of prisoners periodically, and reassign the prisoner to appropriate recidivism reduction programs or productive activities based on the revised classification, the specific needs of the prisoner, and the successful completion of recidivism reduction programs in accordance with subsection (d); and

(3) determine when a prisoner who has been classified as having a low recidivism risk level is ready to transfer into prerelease custody in accordance with subsection (d).

(b) RISK AND NEEDS ASSESSMENT TOOLS.—

(1) IN GENERAL.—The Attorney General shall develop the risk and needs assessment tools to be

used in the System developed under subsection (a) by using the research and data analysis conducted under section 3(b)(3) on the best available risk and needs assessment tools available as of the date of the enactment of this Act, and determining, using the methods described in section 3(c), how to make the most effective and efficient tools to accomplish for each prisoner, the assessments described in paragraphs (1) through (3) of subsection (a).

(2) USE OF EXISTING RISK AND NEEDS ASSESSMENT TOOLS PERMITTED.—In carrying out this subsection, the Attorney General may determine that the best available risk and needs assessment tools available as of the date of the enactment of this Act are sufficiently effective and efficient for the purpose of accomplishing for each prisoner, the assessments described in paragraphs (1) through (3) of subsection (a), and may determine that those are the tools to be used in the System instead of developing new tools.

(3) VALIDATION ON PRISONERS.—In carrying out this subsection, the Attorney General shall statistically validate any tools that the Attorney General selects for use in the System on the Federal

prison population, or ensure that the tools have been so validated.

(c) ASSIGNMENT OF RECIDIVISM REDUCTION PROGRAMS.—The System shall provide guidance on the kind and amount of recidivism reduction programming or productive activities that should be assigned for each classification of prisoner and shall provide—

(1) that the higher the risk level of a prisoner, the more programming the prisoner shall participate in;

(2) information on the best ways that the Bureau of Prisons can tailor the programs to the specific needs of each prisoner so as to best lower each prisoner's risk of recidivating; and

(3) that all prisoners, even those classified as having a low or no risk of recidivating, shall participate in recidivism reduction programs or productive activities throughout their entire term of incarceration.

(d) RECIDIVISM REDUCTION PROGRAM AND PRODUCTIVE ACTIVITY INCENTIVES AND REWARDS.—The System shall provide incentives and rewards for prisoners to participate in and complete recidivism reduction programs and productive activities as follows:

(1) FAMILY PHONE AND VISITATION PRIVILEGES.—A prisoner who is successfully participating in a recidivism reduction program or a productive activity shall receive, for use with family (including extended family), close friends, mentors, and religious leaders—

(A) up to 30 minutes per day, and up to 900 minutes per month that the prisoner is permitted to use the phone; and

(B) additional time for visitation at the prison, as determined by the warden of the prison.

(2) TIME CREDITS.—

(A) IN GENERAL.—A prisoner who successfully participates in a recidivism reduction program or productive activity shall receive time credits as follows:

(i) Prisoners who have been classified as having a low risk of recidivism shall earn 30 days of time credits for each month that they successfully participate in a recidivism reduction program or productive activity.

(ii) Prisoners who have been classified as having a moderate risk of recidivism

shall earn 15 days of time credits for each month that they successfully participate in a recidivism reduction program.

(iii) Prisoners who have been classified as having a high risk of recidivism shall earn 8 days of time credits for each month that they successfully participate in a recidivism reduction program.

(B) AVAILABILITY.—A prisoner may not receive time credits under this paragraph for a recidivism reduction program or productive activity that the prisoner successfully participated in—

(i) prior to the date of the enactment of this Act; or

(ii) during official detention prior to the date that the prisoner's sentence commences under section 3585(a) of title 18, United States Code.

(C) PRERELEASE CUSTODY.—A prisoner who is classified as having a low risk of recidivism, who has earned time credits in an amount that is equal to the remainder of the prisoner's imposed term of imprisonment, and who has been determined by the warden of the prison to

be otherwise qualified for prerelease custody, shall be eligible to be transferred into prerelease custody in accordance with section 3624(c)(3) of title 18, United States Code. The System shall provide guidelines, for use by the Bureau of Prisons for prisoners placed in home confinement under section 3624(c)(3) of title 18, United States Code, for different levels of supervision and consequences based on the prisoner's conduct, including a return to prison and a reassessment of recidivism risk level under the System as a result of certain behavior.

(D) INELIGIBLE PRISONERS.—A prisoner convicted of an offense under any of the following provisions of law shall be ineligible to receive time credits:

(i) Section 113(a)(1) of title 18, United States Code, relating to assault with intent to commit murder.

(ii) Section 115 of title 18, United States Code, relating to influencing, impeding, or retaliating against a Federal official by injuring a family member, except for a threat made in violation of that section.

(iii) Any section of chapter 10 of title 18, United States Code, relating to biological weapons.

(iv) Any section of chapter 11B of title 18, United States Code, relating to chemical weapons.

(v) Section 351 of title 18, United States Code, relating to Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault.

(vi) Section 793 of title 18, United States Code, relating to gathering, transmitting, or losing defense information.

(vii) Section 794 of title 18, United States Code, relating to gathering or delivering defense information to aid a foreign government.

(viii) Any section of chapter 39, United States Code, relating to explosives and other dangerous articles, except for section 836 (relating to the transportation of fireworks into a State prohibiting sale or use).

(ix) Section 842(p) of title 18, United States Code, relating to distribution of in-

formation relating to explosive, destructive devices, and weapons of mass destruction, but only if the conviction involved a weapon of mass destruction (as defined in section 2332a(c)(2) of such title).

(x) Subsections (f)(3), (i), or (h) of section 844 of title 18, United States Code, relating to the use of fire or an explosive.

(xi) Section 924(e) of title 18, United States Code, relating to unlawful possession of a firearm by a person with 3 or more convictions for a violent felony or a serious drug offense.

(xii) Section 1030(a)(1) of title 18, United States Code, relating to fraud and related activity in connection with computers.

(xiii) Any section of chapter 51 of title 18, United States Code, relating to homicide, except for section 1112 (relating to manslaughter), 1115 (relating to misconduct or neglect of ship officers), or 1122 (relating to protection against the human immunodeficiency virus).

(xiv) Any section of chapter 55 of title 18, United States Code, relating to kidnaping.

(xv) Any offense under chapter 77 of title 18, United States Code, relating to peonage, slavery, and trafficking in persons, except for sections 1592 through 1596.

(xvi) Section 1751 of title 18, United States Code, relating to Presidential and Presidential staff assassination, kidnaping, and assault.

(xvii) Section 1841(a)(2)(C) of title 18, United States Code, relating to intentionally killing or attempting to kill an unborn child.

(xviii) Section 1992 of title 18, United States Code, relating to terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.

(xix) Section 2113(e) of title 18, United States Code, relating to bank robbery resulting in death.

(xx) Section 2118(c)(2) of title 18, United States Code, relating to robberies and burglaries involving controlled substances resulting in death.

(xxi) Section 2119(3) of title 18, United States Code, relating to taking a motor vehicle (commonly referred to as "carjacking") that results in death.

(xxii) Any section of chapter 105 of title 18, United States Code, relating to sabotage, except for section 2152.

(xxiii) Any section of chapter 109A of title 18, United States Code, relating to sexual abuse, except that with regard to section 2244 of such title, only a conviction under subsection (c) of that section (relating to abusive sexual contact involving young children) shall make a prisoner ineligible under this subparagraph.

(xxiv) Section 2251 of title 18, United States Code, relating to the sexual exploitation of children.

(xxv) Section 2251A of title 18, United States Code, relating to the selling or buying of children.

(xxvi) Any of paragraphs (1) through (3) of section 2252(a) of title 18, United States Code, relating to certain activities relating to material involving the sexual exploitation of minors.

(xxvii) A second or subsequent conviction under any of paragraphs (1) through (6) of section 2252A(a) of title 18, United States Code, relating to certain activities relating to material constituting or containing child pornography.

(xxviii) Section 2260 of title 18, United States Code, relating to the production of sexually explicit depictions of a minor for importation into the United States.

(xxix) Section 2283 of title 18, United States Code, relating to the transportation of explosive, biological, chemical, or radioactive or nuclear materials.

(xxx) Section 2284 of title 18, United States Code, relating to the transportation of terrorists.

(xxxi) Section 2291 of title 18, United States Code, relating to the destruction of a vessel or maritime facility.

(xxxii) Any section of chapter 113B of title 18, United States Code, relating to terrorism.

(xxxiii) Section 2340A of title 18, United States Code, relating to torture.

(xxxiv) Section 2381 of title 18, United States Code, relating to treason.

(xxxv) Section 2442 of title 18, United States Code, relating to the recruitment or use of child soldiers.

(xxxvi) Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)), relating to the engagement or participation in the development or production of special nuclear material.

(xxxvii) Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122), relating to prohibitions governing atomic weapons.

(xxxviii) Section 101 of the Atomic Energy Act of 1954 (42 U.S.C. 2131), re-

lating to the atomic energy license requirement.

(xxxix) Section 224 or 225 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275), relating to the communication or receipt of restricted data.

(xl) Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), relating to the sabotage of nuclear facilities or fuel.

(xli) Section 60123(b) of title 49, United States Code, relating to damaging or destroying a pipeline facility.

(xlii) Section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)), relating to manufacturing or distributing a controlled substance, but only in the case of a conviction for an offense described in subparagraphs (A), (B), or (C) of subsection (b) of that section for which death or serious bodily injury resulted from the use of such substance.

(xliii) Section 276(a) of the Immigration and Nationality Act (8 U.S.C. 1326(b)(1)(2)), relating to the reentry of a removed alien, but only if the alien is de-

scribed in paragraph (1) or (2) of subsection (b) of that section.

(xliv) Any section of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

(xlv) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705).

(xlvi) Section 601 of the National Security Act of 1947 (50 U.S.C. 3121), relating to the protection of identities of certain United States undercover intelligence officers, agents, informants, and sources.

(xlvii) A third or subsequent conviction of—

(I) any crime of violence (as such term is defined in section 3156(a)(4) of title 18, United States Code); or

(II) any drug trafficking offense.

(3) RISK REASSESSMENTS AND LEVEL ADJUSTMENT.—A prisoner who successfully participates in recidivism reduction programs or productive activities shall receive periodic risk reassessments (with high and moderate risk level prisoners receiving more frequent risk reassessments), and if the reas-

sessment shows that the prisoner's risk level or specific needs have changed, the Bureau of Prisons shall so change the prisoner's risk level or information regarding the prisoner's specific needs and reassign the prisoner to appropriate recidivism reduction programs or productive activities based on such changes.

(4) RELATION TO OTHER INCENTIVE PROGRAMS.—The incentives described in this subsection shall be in addition to any other rewards or incentives for which a prisoner may be eligible.

(e) PENALTIES.—The System shall provide guidelines for the Bureau of Prisons to reduce rewards earned under subsection (d) for prisoners who violate prison, recidivism reduction program, or productive activity rules, which shall provide—

(1) general levels of violations and resulting reward reductions;

(2) that any reward reduction that includes the forfeiture of time credits shall be limited to time credits that a prisoner earned as of the date of the prisoner's rule violation, and not to any future credits that the prisoner may earn; and

(3) guidelines for the Bureau of Prisons to establish a procedure to restore time credits that a

prisoner forfeited as a result of a rule violation based on the prisoner's individual progress after the date of the rule violation.

(f) BUREAU OF PRISONS TRAINING.—The Attorney General shall develop training programs for Bureau of Prisons officials and employees responsible for administering the System, which shall include—

(1) initial training to educate employees and officials on how to use the System in an appropriate and consistent manner, as well as the reasons for using the System;

(2) continuing education; and

(3) periodic training updates.

(g) QUALITY ASSURANCE.—In order to ensure that the Bureau of Prisons is using the System in an appropriate and consistent manner, the Attorney General shall monitor and assess the use of the System, which shall include conducting periodic audits of the Bureau of Prisons regarding the use of the System.

SEC. 5. RECIDIVISM REDUCTION PROGRAM AND PRODUCTIVE ACTIVITY RECOMMENDATIONS.

The Attorney General shall—

(1) review the effectiveness of recidivism reduction programs and productive activities that exist as

of the date of the enactment of this Act in prisons operated by the Bureau of Prisons;

(2) review recidivism reduction programs and productive activities that exist in State-operated prisons throughout the United States; and

(3) make recommendations to the Bureau of Prisons regarding—

(A) the expansion of programming and activity capacity and the replication of effective programs and activities described in paragraph (1); and

(B) the addition of any new effective programs and activities that the Attorney General finds, using the methods described in section 3(c), would help to reduce recidivism.

SEC. 6. REPORT.

Beginning on January 1, 2015, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives and the Subcommittees on Commerce, Justice, Science, and Related Agencies of the Committees on Appropriations of the Senate and the House of Representatives, a report that contains the following:

(1) A summary of the activities and accomplishments of the Attorney General in carrying out this Act.

(2) An assessment of the status and use of the System by the Bureau of Prisons, including the number of prisoners classified at each risk level under the System at each prison.

(3) A summary and assessment of the types and effectiveness of the recidivism reduction programs and productive activities in prisons operated by the Bureau of Prisons, including—

(A) evidence about which programs and activities have been shown to reduce recidivism;

(B) the capacity of each program and activity at each prison, including the number of prisoners along with the risk level of each prisoner enrolled in each program; and

(C) identification of any gaps or shortages in capacity of such programs and activities.

(4) An assessment of the Bureau of Prisons' compliance with section 3621(h) of title 18, United States Code.

(5) An assessment of progress made toward carrying out the purposes of this Act, including any savings associated with—

(A) the transfer of low risk prisoners into prerelease custody under this Act and the amendments made by this Act; and

(B) any decrease in recidivism that may be attributed to the implementation of the System or the increase in recidivism reduction programs and productive activities required by this Act and the amendments made by this Act.

SEC. 7. USE OF SYSTEM AND RECOMMENDATIONS BY BUREAU OF PRISONS.

(a) IMPLEMENTATION OF SYSTEM GENERALLY.—Section 3621 of title 18, United States Code, is amended by adding at the end the following:

"(h) POST-SENTENCING RISK AND NEEDS ASSESSMENT SYSTEM.—

"(1) IN GENERAL.—Not later than 180 days after the Attorney General completes and releases the Post-Sentencing Risk and Needs Assessment System (referred to in this subsection as the 'System') developed under the Public Safety Enhancement Act of 2013, the Bureau of Prisons shall—

"(A) implement the System and complete a risk and needs assessment for each prisoner, regardless of a prisoner's length of imposed term of imprisonment; and

"(B) expand the effective recidivism reduction programs (as such term is defined under section 8 of the Public Safety Enhancement Act of 2013) and productive activities it offers and add any new recidivism reduction programs and productive activities necessary to effectively implement the System, and in accordance with the recommendations made by the Attorney General under section 5 of that Act and with paragraph (2).

"(2) PHASE-IN.—In order to carry out paragraph (1), so that every prisoner has the opportunity to participate in and complete the kind and amount of recidivism reduction programming or productive activities in order to effectively implement the System and that the Attorney General recommends, the Bureau of Prisons shall, subject to the availability of appropriations, provide such recidivism reduction programs and productive activities—

"(A) for not less than 20 percent of prisoners by the date that is one year after the date on which the Bureau of Prisons completes a risk and needs assessment for each prisoner under paragraph (1)(A);

"(B) for not less than 40 percent of prisoners by the date that is 2 years after the date on which the Bureau of Prisons completes a risk and needs assessment for each prisoner under paragraph (1)(A);

"(C) for not less than 60 percent of prisoners by the date that is 3 years after the date on which the Bureau of Prisons completes a risk and needs assessment for each prisoner under paragraph (1)(A);

"(D) for not less than 80 percent of prisoners by the date that is 4 years after the date on which the Bureau of Prisons completes a risk and needs assessment for each prisoner under paragraph (1)(A); and

"(E) for all prisoners by the date that is 5 years after the date on which the Bureau of Prisons completes a risk and needs assessment for each prisoner under paragraph (1)(A) and thereafter.

"(3) PRIORITY DURING PHASE-IN.—During the phase-in period described in paragraph (2), the priority for such programs and activities shall be accorded based on, in order, the following:

"(A) The recidivism risk level of prisoners (as determined by the System's risk and needs assessment), with low risk prisoners receiving first priority, moderate risk prisoners receiving second priority, and high risk prisoners receiving last priority.

"(B) Within each such risk level, a prisoner's proximity to release date.

"(4) PRELIMINARY EXPANSION OF RECIDIVISM REDUCTION PROGRAMS AND AUTHORITY TO USE INCENTIVES.—Beginning on the date of the enactment of the Public Safety Enhancement Act of 2013, the Bureau of Prisons may begin to expand any recidivism reduction programs and productive activities that exist at a prison as of such date, and may offer to prisoners who successfully participate in such programming and activities the incentives and rewards described in—

"(A) section 4(d)(1) of such Act; and

"(B) section 4(d)(2)(A) of such Act, except a prisoner may receive up to 30 days of time credits for each recidivism reduction program or productive activity in which the prisoner successfully participates, with the amount of time

credits to be determined by the warden of the prison.

"(5) RECIDIVISM REDUCTION PARTNERSHIPS.—In order to expand recidivism reduction programs and productive activities, the Bureau of Prisons shall develop policies for the warden of each prison to enter into partnerships with any of the following:

"(A) Nonprofit organizations, including faith-based and community-based organizations that will deliver a recidivism reduction program in a prison, on a paid or volunteer basis.

"(B) Institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 20 U.S.C. 1001) that will deliver an academic class in a prison, on a paid or volunteer basis.

"(C) Private entities that will, on a volunteer basis—

"(i) deliver vocational training and certifications in a prison;

"(ii) provide equipment to facilitate vocational training or employment opportunities for prisoners;

"(iii) employ prisoners; or

"(iv) assist prisoners in prerelease custody or supervised release in finding employment.".

(b) PRERELEASE CUSTODY.—

(1) IN GENERAL.—Section 3624(c) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), accordingly;

(B) by inserting after paragraph (2) the following:

"(3) PRISONERS WITH A LOW RISK OF RECIDIVATING.—In the case of a prisoner that has been classified under the Post-Sentencing Risk and Needs Assessment System developed under the Public Safety Enhancement Act of 2013 as having a low risk of recidivating, has earned time credits in an amount that is equal to the remainder of the prisoner's imposed term of imprisonment, and has been classified by the warden of the prison as otherwise qualified to be transferred into prerelease custody, the following shall apply:

"(A) The warden of the prison shall submit a recommendation that the prisoner be transferred into prerelease custody to the

United States district court in which the prisoner was convicted, and a judge for such court shall, not later than 30 days after the warden submits such recommendation, approve or deny the recommendation; however, a judge may only deny a recommendation to transfer a prisoner into prerelease custody under this paragraph if the judge finds by clear and convincing evidence that the prisoner should not be transferred into prerelease custody based only on evidence of the prisoner's actions after the conviction of such prisoner and not based on evidence from the underlying conviction, and submits a detailed written statement regarding such finding to the warden of the prison recommending that the prisoner be transferred into prerelease custody.

"(B) The failure of a judge to approve or deny a recommendation to transfer at the end of the 30 day period described in subparagraph (A) shall be treated as an approval of such recommendation.

"(C) Upon the approval of a recommendation under subparagraph (A) or 30 days after the warden submits a recommendation, whichever occurs earlier, the prisoner shall be placed

in home confinement, provided that the prisoner will be able to stay in a residence that the warden approves, and the time limits under paragraphs (1) and (2) shall not apply.

"(D) The prisoner shall remain in home confinement until the prisoner has served not less than 85 percent of the prisoner's imposed term of imprisonment.

"(E) The warden shall use the guidelines developed by the Attorney General under section 4(d)(2)(C) of the Public Safety Enhancement Act of 2013 to determine the level of supervision and consequences for certain actions for a prisoner transferred into prerelease custody under this paragraph.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect beginning on the date that the Attorney General completes and releases the Post-Sentencing Risk and Needs Assessment System.

SEC. 8. DEFINITIONS.

In this Act the following definitions apply:

(1) RISK AND NEEDS ASSESSMENT TOOL.—The term "risk and needs assessment tool" means an objective and statistically validated method through

which information is collected and evaluated to determine—

(A) the level of risk that a prisoner will recidivate upon release from prison; and

(B) the recidivism reduction programs that will best minimize the risk that the prisoner will recidivate upon release from prison.

(2) RECIDIVISM REDUCTION PROGRAM.—The term "recidivism reduction program" means either a group or individual activity that—

(A) has been shown by empirical evidence to reduce recidivism;

(B) is designed to help prisoners succeed in their communities upon release from prison; and

(C) may include—

(i) classes on social learning and life skills;

(ii) classes on morals or ethics;

(iii) academic classes;

(iv) cognitive behavioral treatment;

(v) mentoring;

(vi) substance abuse treatment;

(vii) vocational training;

(viii) faith-based classes or services; or

(ix) a prison job.

(3) PRODUCTIVE ACTIVITY.—The term "productive activity" means either a group or individual activity that is designed to allow prisoners classified as having a low risk of recidivism to remain productive and thereby maintain a low risk classification, and may include the delivery of the activities described in subparagraph (C) to other prisoners.

(4) PRISONER.—The term "prisoner" means a person who has been sentenced to a term of imprisonment pursuant to a conviction for a Federal criminal offense.

(5) TIME CREDIT.—The term "time credit" means the equivalent of one day of a prisoner's sentence, such that a prisoner shall be eligible for one day of home confinement for each credit earned.

(6) DRUG TRAFFICKING OFFENSE.—The term "drug trafficking offense" means any crime punishable under Federal, State, or local law that prohibits the manufacture, import, export, distribution, dispensing of, or offer to sell a controlled substance or counterfeit substance (as such terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the possession of a controlled sub-

stance or counterfeit substance with intent to manufacture, import, export, distribute, or dispense.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $50,000,000 for each of fiscal years 2015 through 2019. Of the amount appropriated under this subsection, 80 percent shall be reserved for use by the Director of the Bureau of Prisons to implement the System under section 7 and the amendments made by that section.

(b) SENSE OF CONGRESS.—It is the sense of Congress that any savings associated with reducing recidivism and reducing the prison population that result from this Act should be reinvested into further expansion of recidivism reduction programs and productive activities by the Bureau of Prisons.

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Mr. MADDEN. I already have, obviously, with Senator Cornyn as a sponsor, has also talked a little about what we did in Texas. Let me analyze one thing on the risk assessment since you have got 30 seconds left.

Mr. CHAFFETZ. Sure.

Mr. MADDEN. The risk assessment, there are two different types of risk you have: the risk of the people redoing the same crime that they did and the risk of violent offenses. And you need to make sure your risk analysis truly analyzes the differences between the two because a lot of your prisoners are low risk of violent crimes but high risk of doing the dumb thing that got them to prison the first time.

Mr. CHAFFETZ. Thank you. Yield back.

Mr. SENSENBRENNER. Time of the gentleman has expired.

Gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Sensenbrenner. I just want the record to show that this is the most informative and thoughtful panel on this subject that I have heard in a long, long time. And I thing you and Ranking Member Bobby Scott should be congratulated on putting this together.

And, you know, I am beginning to feel like there are more Republicans like yourself, Senator Ward, that are thinking about this. It is a wonderful thing. And what I wanted to start off by asking Dr. La Vigne is, how would we prioritize these legislative recommendations? I am going to get copies of this discussion here today because I think it needs to be shown around the country, not just to the people that are looking at it now or reading about it later. Where do we start? How do we get this thing on the road?

Ms. LA VIGNE. Right. I wouldn't recommend any one piece of legislation over another, but I will emphasize our conclusion in our report, and that is that you really need more than one. You cannot achieve meaningful reductions in the Federal prison population looking only at, for example, earned release or other back-end measures.

The reason is because, as we have mentioned already, the degree of overcrowding is so great. It is so great that you really need to do a lot of different things to achieve reductions. So what we conclude is that it really needs to be a combination of both back-end and front-end reforms.

Mr. CONYERS. Would you, Senator, like to add anything on to this discussion?

Mr. WARD. Real briefly, Congressman, what I would say is this. It is going to take some political courage more than anything else. I mean, the tools and the data that you have heard here today from my esteemed colleagues on this panel, I mean, we have experts from all over the country that can tell you some of the road maps. The problem we have—and let's face it, I am from the reddest of red States, I am almost as red as Utah, I mean, we are a very Republican, conservative State—but at the end of the day what we have to realize is the level of incarceration spending that we are doing now, the conditions of the facilities that we are doing and what we are expecting as far as what comes out on the back end, is not sustainable. It can't be sustained by our current fiscal poli-

cies in State government. It can't be sustained by what we would consider adequate conditions under the Eighth Amendment.

The data is there. We don't have to reinvent the wheel of the States. They have already been done. But we have to have the political courage to say, this is broken, we have to fix it. Whether you are from a red state, blue state, purple state, we all agree there is a broken system, and this is one area that I think we can all agree on how to fix it because the tools are out there.

Mr. CONYERS. Well, are there more conservatives coming around to this point of view being expressed here in the Judiciary Committee?

Mr. WARD. Absolutely. I think there are people here on Capitol Hill that have expressed on several occasions, both in the Republican Party and Democrat Party, that it is one issue we can work together on. And I think in State government we realize, too, as a conservative, I want to see a much more efficient way of government being operated. But you can't run an efficient government the way we are doing it right now with corrections. So, yeah, I think there are.

Mr. MADDEN. May I take a shot at that, too?

Mr. CONYERS. Please do.

Mr. MADDEN. Since I am with the Right on Crime people, the Texas Public Policy, and it is the national conservative voice that is speaking out on this, I will say that when we first did all these things and we had Pew conferences, the things that we basically got out of that from the States that did the reforms, and that is people like Georgia and Kentucky and North Carolina, those States basically said go as much as you can, get all the areas that we are talking about.

So the legislation that is out there now, whether that be—I have noticed the sponsors on both Senate and House legislation have been both conservative Republicans and liberal Democrats, and they are mixed on the bills. That is a great sign, and I would highly encourage continuing because that is the opportunities there that we have found in the States, and the great thing was that most of those pieces of legislation were passed almost unanimously and almost with total bipartisan support.

Mr. CONYERS. We have a Congressional Black Caucus conference coming up in September, and I think three or more of our colleagues who are on Judiciary Committee would welcome a panel with any of you that can be there with us to help get this word out.

Mr. SENSENBRENNER. If the gentleman will yield, I would just urge you not to be afraid of the Congressional Black Caucus because I have been and talked to them and I am still here.

Mr. CONYERS. Well, yeah, but you are one of those exceptional conservatives that I was bragging about along with Senator Ward. We are looking for more Sensenbrenners, more Wards. And we want to come together and make this real and not just a sensational hearing on August 15.

Mr. SENSENBRENNER. I will say the gentleman's time has expired. Before people on the other side start criticizing me, the gentleman from South Carolina, Mr. Gowdy.

Mr. GOWDY. Thank you, Mr. Chairman.

Mr. Madden, who in the Federal system do you think is incarcerated because we are mad at them as opposed to being afraid of them.

Mr. MADDEN. Sure. When we discussed that on mad versus afraid, the ones that we are afraid of are clearly the people who would do us a great deal of harm, and that is murderers and rapists and, yes, major drug dealers. I think we have some in the Federal system.

Mr. GOWDY. Well, you know there are going to be very few people in Federal prison because of rape or murder——

Mr. MADDEN. That is true.

Mr. GOWDY [continuing]. Because most of them are in State prison. So who in Federal prison is there because we are just mad at them?

Mr. MADDEN. I would say that those people who are actually drug users are probably those we are mad at.

Mr. GOWDY. Well, now, Chairman, there is nobody in Federal prison for using drugs. They may be there for possession with intent to distribute, they may be there for conspiracy, but they are not there for using drugs. So I ask you again, who is in Federal prison because we are mad at them, not because we are afraid of them?

Mr. MADDEN. The nice thing is my studies that I had, Representative, was that I don't portray myself as an expert on other systems that they have. What I do have is I do have the knowledge of what other States have looked at and the data that they have looked into. I agree with you, though——

Mr. GOWDY. Well, Mr. Chairman, I am not the one that said it.

Mr. MADDEN. I understand.

Mr. GOWDY. I didn't write that people are in Federal prison because we are mad at them and not afraid of them. That was you that said that.

Mr. MADDEN. I think I wrote that we have people in the prisons that we are mad at and afraid of, and that was distance that use, particularly in the States and our discussions there.

Mr. GOWDY. Well, that necessarily assumes that the only reason to send someone to prison is because we are afraid of them, and I would argue that there are lots of other reasons to send people to prison other than the fact that we are afraid of them, like maybe the fact they didn't learn when we gave them probation. Maybe they didn't learn when we put them through a diversion program.

Mr. MADDEN. One of the things that we look at the Texas Public Policy Foundation and Right on Crime is overcriminalization and things that are made criminal law, that basically we look at the things like mens rea provisions. And, again, I am not a lawyer, so I am speaking in terms as the gentleman who says there are things that we make as overcriminalization, and we have specifically talked about that. I know there have been hearings up here about——

Mr. GOWDY. There have been.

Dr. La Vigne, let me ask you to help me understand a phrase that sometimes I struggle to understand, which is nonviolent offender.

Ms. LA VIGNE. Right. This was a challenge in our report because we lacked the data that we really needed to see what the criminal histories were of the people in the Federal system.

Mr. GOWDY. Well, give me a for instance of a nonviolent offender.

Ms. LA VIGNE. So what we did instead was to use security level, so those housed in low security Federal facilities we assumed were nonviolent.

Mr. GOWDY. Did you look at the incident report?

Ms. LA VIGNE. I am sorry, the what report?

Mr. GOWDY. Did you talk to the victim? I am trying to get an idea, because I have heard multiple witnesses use the phrase nonviolent offender.

Ms. LA VIGNE. This is a really good question and one that we would very much like to answer if we can get the right data from the Bureau of Prisons.

Mr. GOWDY. Well, here is the challenge. And I readily agree, at least 80 percent of the crime I saw was drug and alcohol fueled. The difficulty we ran into when we tried to put a defendant in a nonviolent fact pattern into drug court, his or her defense attorney objected because it was much easier to just go straight probation than go to drug court. So how do you make someone post-adjudication go to drug court?

Ms. LA VIGNE. I don't have that answer.

Mr. GOWDY. Well, look, I am with you. Drugs and alcohol drive 80 percent of the crime. And I am not suggesting other people don't have the victim's perspective, but I am much more interested in the victim's perspective than I am the inmate's perspective. But when you have a defense attorney advising people to go straight probation even though they are an addict because that is easier than going through drug court, I don't know what you expect the State to do about that.

Mr. WARD. Congressman, I would say you incentivize it. I would say you make it more attractive. And I think everybody up here agrees the victim's rights should always come in front of the inmate's. We all agree on that.

Mr. GOWDY. Well, how do you incentivize it other than shortening the term of incarceration?

Mr. WARD. Well, what you do, for example, if you have a choice of post-incarceration of probation or drug court, make it more attractive to go there. And I don't know the answer how you make I think more attractive. Make it more attractive. Maybe shorten the term of the probation, maybe lighten the terms of the probation to incentivize them.

Mr. GOWDY. But that is post-adjudication. That is not a diversion program.

Mr. WARD. Well, then do it ahead of time. Do it on the front end as well. You could do it on the front end as well. I mean, there are ways to incentivize it to make it attractive as opposed to what the alternative is, and that is how you get around the defense attorney's argument.

Mr. GOWDY. Well, regrettably, I am out of time, Mr. Chairman.

Mr. SENSENBRENNER. The gentlewoman from California, Ms. Bass.

Ms. BASS. Thank you very much, Mr. Chair, for holding this hearing, and also to the Ranking Member.

You know, like my colleague, I also have the victim's perspective in mind, and one of the things that has happened over the years as the incarceration rates have been so high is that we have not really thought about when we release people in a lot of instances around our country you have a tremendous number of people who are released to certain communities. And then they have no options. Because of collateral consequences, they don't have an opportunity to work in the legal economy and they go right back and commit crimes. So having an overconcentration of people coming out of prison to particular communities then revictimizes those communities.

And so what I wanted to ask you about, because you talked about evidence-based programs—I come from California, by the way, so you know we are really struggling with this and the courts have required us to release people. So one of the issues that we are dealing with is that when people get out, how do you then reintegrate them into a community so that they have other options? So I wanted to ask you if there has been research about reentry programs that help people navigate their way so that they don't wind up incarcerated again. And then, which collateral consequences do you feel we should eliminate at the Federal level?

Ms. LA VIGNE. Okay. Yes, there is ample research on ways that people can be prepared for successful reintegration. A lot of that research is actually embodied in the What Works in Reentry Clearinghouse. It is something that the Urban Institute developed in partnership with the Council of State Governments, funded by the Second Chance Act. And what we strove to do was to identify only the most rigorous studies out there, because a lot of people point to studies that are effective or not, but then when you look at them you realize they are not really well conducted to begin with.

So after screening out only the most rigorous studies, we then identified by different types of reentry mechanisms, say, enhanced education, employment, housing, treatment, what programs worked and for whom. And all of that is housed on a Web site that is searchable, and you will see that there is an ample body of research that suggests several things.

One, reentry should really start at the point of incarceration. So you use the risk and needs assessment to identify what kind of programs and services and treatment that they need, make sure that they get them, and then also that you really need a very good transition from prison to the community. So you don't just release them and say, good luck. You release them and you have that handoff to the community services and support.

Ms. BASS. Right. That is one of the things that we are doing in California, unfortunately, is releasing, and some people who have been in solitary confinement forever getting released and going straight on the street with not a lot happening. So one of the phenomenons that is kind of happening in the Los Angeles area, and in LA, since we have 30 percent of the prison population who come out, one of the things that is happening is a number of formerly incarcerated individuals are starting their own little mom-and-pop nonprofits to essentially hand hold people. Some people who have

been locked up too long don't even know how to use public transportation or do the basics.

And so I am wondering, in your evidence-based research, do you have very small nonprofits that have been studied like this? And that is for anybody.

Ms. LA VIGNE. I haven't found those in any of the very rigorous studies that we have looked at, but it stands to reason, and actually there is some anecdotal evidence to suggest that the best kind of support for returning citizens is that that comes from folks who have already experienced incarceration and can really relate and speak to them and help them and understand what their challenges are.

Ms. BASS. And for the other panelists in my remaining time, do you see a difference with private prisons, people coming out of private prisons versus government-run prisons?

Mr. WETZEL. Pennsylvania doesn't do private prisons.

Mr. WARD. In Alabama, we spend so little on our incarceration rate that actually it costs us more to use private prisons. And from the data that we looked at around 2006 when we actually did experiment with private prisons, there was absolutely no difference between the two facilities as far as the outcome-based results of the offenders released.

Ms. BASS. Texas?

Mr. MADDEN. Texas has some private prisons. The recidivism rate that you get from the private prisons, since they are generally there for our lower-level offenders, match pretty closely the State facilities that we have for low-level offenders. They are about the same.

Ms. BASS. Okay. Thank you.

Yield back my time.

Mr. SENSENBRENNER. The gentleman from Idaho, Mr. Labrador.

Mr. LABRADOR. Thank you, Mr. Chairman.

Mr. Ward, and this applies to everybody on the panel as well, but the theme that runs throughout most of your testimony is the need of flexibility in our criminal justice system, alternatives to detention, individualized approaches to parole, treatment, and much else.

I have a bill with Congressman Scott, it is called the Smarter Sentencing Act, which would give judges more flexibility to make individualized sentencing determinations. Can you address the issue of flexibility in sentencing in your State and the importance of an individualized approach in criminal justice more generally?

Mr. WARD. Unfortunately in Alabama we had a situation where we had, and use the phrase too much flexibility, up until about 2006. Basically I could go to one county and be sentenced to community corrections or probation, I could go to the next county over for the exact same crime, the exact same instance, and be sentenced to 10 years in prison.

So what we did was we came up with a uniform voluntary set of guidelines. Those guidelines, again, were still ignored by some of the judges, taken on by other judges. These guidelines were created through a data-driven empirical analysis to look at the system.

We now have presumptive guidelines in Alabama. The presumptive guidelines do give the judges flexibility, because there are certain circumstances when the judge says this person really belongs in community corrections, and they can show an exception to the presumptive guidelines in writing and say, this is why I believe this inmate should go to or this offender should go to community corrections.

The flexibility is necessary because the moment you start putting everyone in a small box, you are hamstringing yourself and you are restricting the judicial right to determine individual case-by-case basis. And that is how alternative sentencing has really been successful, because drug courts are handled by judges who say we need an exception to this set of circumstances. So in my State, I think that is a very good thing and it has been very successful as well.

Mr. LABRADOR. Excellent. And that is what we are trying to do here in the House of Representatives as well, is to give a little bit more flexibility within the guidelines to give the judges a little bit more flexibility.

You also discussed the benefit of certain sentencing reduction programs, and I think these are all good ideas. But I am wondering why we don't get the sentences right in the first place, which sounds like that is what you were doing in Alabama.

Mr. WARD. You are exactly right.

Mr. LABRADOR. So according to a review of the Justice Department records of prisoners released since 1994, prisoners are more likely to recidivate the longer they stay in prison. And the reason why America has such a larger population of prisoners than Europe is that we imprison them so much longer. Given these facts, Ms.—is it La Vigne?

Ms. LA VIGNE. La Vigne.

Mr. LABRADOR. La Vigne. Shouldn't we have the goal at the outset of making sentences fit the crime and give judges the ability to avoid unnecessarily long sentences?

Ms. LA VIGNE. Well, this is my own personal opinion, but I think that judicial discretion is kind of an interesting thing. When I was working many, many years ago in Texas for the Sentencing Commission, at the time judges had between 5 and 99 years for first degree felonies. It was too much discretion. Everybody agreed with that. But in the Federal system you see restricted discretion because of mandatory minimums. And your bill, sir, to have mandatory minimums for certain types of drug offenders I think makes sense because it is not mandating that sentences be lower, it is just giving the judges a little bit more discretion.

Mr. LABRADOR. Okay. Now, I just have a general question. I was a criminal defense attorney, so I don't dislike them as much as my good friend here to my left. But I always wondered why we don't have shorter sentences and harsher punishment. So have any of you considered what could we do at the State level or at the Federal level to make sure that the sentences, when you go to prison, you actually have harsh punishment?

I will just give you an example. I went to talk to a junior high school class of Hispanic students, and one of the students kept looking at me. I was trying to explain to them why it was impor-

tant to go to college and do all those things, and one of the kids just looked at me and says, hey, I have an uncle in prison, and he gets three meals a day and he has four walls and he gets fed, and he is enjoying, he is actually enjoying being in prison. That broke my heart to hear something like that.

What could we do at the State level and at the Federal level to actually make prison a little bit more difficult so they are not thinking that they are actually on a vacation while they are there?

Mr. WARD. Congressman, I was just going to say, first of all, these rehabilitation programs, forcing them to learn a skill, forcing them to work while they are in there, not only does it make the sentence harsher, but also makes them more productive when eventually they do get released, and 95 percent do get released. And as your colleague to your left said, the crimes that occur in State prisons or what got you to the State prison are very different from what got you into, say, a Federal prison. We have a lot more violent offenders. So you have got to give them those skills, make them work harder. And while they are working, they are learning a skill while they are incarcerated.

Mr. SENSENBRENNER. The gentleman's time has expired.

The gentleman from Louisiana, Mr. Richmond.

Mr. RICHMOND. Thank you, Mr. Chairman, and thank you for calling the hearing.

Senator Ward, and you mentioned the political will and the political courage to get it done, and my colleague, Mr. Chaffetz, entered into the record the Newt Gingrich article. The disappointing part about it is that the article was written in 2011 calling for all of us to come together. And I think that you see mutual ideas here and in fact that many of us are on the same page, but it is 2014 and we are still on step one.

So part of the question is, how we move it forward without people who are afraid of it being branded, I guess, soft on crime, and I just think it is something we have to do.

Let me ask you, I am going to give you a figure and then I want you all to give me your estimate. And I am not going to hold you to it, but right feel for you. With the Federal prisons, what a good time credit would be. We give about 54 days a year. For every 7 additional days that we would give, we would save about $200 million over 5 years, about $30 million a year.

In my State of Louisiana, we went in and doubled good time under a Republican governor, a Republican legislature, because we saw it made sense. And all of our Southern States are kind of moving in that trend.

If you just had to throw out a number of how many days of earned good time you think you can absorb without making the public less safe, if you had to throw out a number, what would you throw out, or a range?

Mr. WARD. I would say in Alabama you could probably add 10 additional days. That would be the general consensus. Again, I am speaking off the cuff, 10 additional days from what we would do now. But we would still be below what Louisiana's average is.

Mr. SCOTT. Ten days for what?

Mr. WARD. I am sorry? Ten additional days from what we do now, which I believe is 54.

Mr. RICHMOND. We are 54 in the Feds. And while Mr. Wetzel answers, I will look and quickly glance and see what Alabama is at.

Mr. WETZEL. We are not a good time State, and so that is not really how we relate to the world. We really try to introduce risk assessment at sentencing, so make a good decision. So everybody knows at the sentencing time how much time at minimum the individual is going to serve. And then to the extent you can individualize decisions and make good decisions at who can get out earlier, I think that is what makes sense in our context.

Mr. RICHMOND. Well, I think it still incentivize behavior that will——

Mr. WETZEL. I am not disagreeing with that.

Mr. RICHMOND. Right, that will reduce your sentence.

Mr. WETZEL. I don't have a point of reference to throw a number out to you.

Mr. RICHMOND. Okay.

Mr. MADDEN. It was interesting. I was over in your State of Louisiana before their legislature this last session on several bills that they were doing, that they have done, and a couple that they didn't do dealing with the powers of individuals in your State. But a couple of recommendations that are there. We have a parole board that looks, we are probably more of a good time State than John's is, but we are not a good time State either when it comes to incarceration, but what you can look at is what are you doing with your parole and your parole actions that you have in putting people or releasing them, what amounts to release time.

One of the things we actually did in our looks was we had the parole board that was saying, this person is eligible for parole, all they have to do is have this drug treatment program, this 18-month drug treatment program. The problem we had in Texas when we did this is there was a waiting period for that drug program of over a year, people just sitting there. Before they started an 18-month program, they were sitting there and waiting for over a year.

This is the great thing as an engineer who could sit there and think about studies of queuing theory and how much did we spend on just keeping those people to wait for a program that they needed and then were eligible for release. We saved a lot of money by putting in additional drug treatment facilities in the prisons, so we shortened that waiting time substantially. And those are the kinds of things you can look at doing.

Mr. RICHMOND. Have any of you all enacted reentry courts? I passed a reentry court bill a couple years ago, and now it is coming full circle, and we have just run some awards in Louisiana which would allow the judge to sentence a person to—and actually, they send them to Angola, which is our State penitentiary, with a range of between zero and 10 years. But after completing programs and going through training, at some point the warden will declare that they are not a risk to society and the warden then has the ability to petition for their release.

And that has been a very effective model in getting people actually treatment, skills, workforce development, and all of those other things to put them back on the streets in an area where our recidi-

vism rate with those offenders are very, very low, even though they are going to our State penitentiary.

Mr. WARD. That has been a political debate with our State prosecutors, although I think it is an idea a lot of them are warming up to now. But, yes, we have looked at that. Legislation 3 years ago to do that failed in Alabama; however, I think there is a lot more support now for that than there used to be due to the crisis we are in.

Mr. SENSENBRENNER. The gentleman's time has expired.

The gentleman from Virginia, Mr. Forbes.

Mr. FORBES. Mr. Chairman, I, first of all, want to thank you and the Ranking Member for holding this hearing. I think it is a very important topic.

And thank all of you for being here. I apologize. I have been in an Armed Services hearing that was in conflict. And I hope I am not asking you a question that you have already addressed, but I was wondering if you could give me your thoughts on the mental health aspects and how we are assessing individuals when they come into the system, what you view in terms of our treatment capabilities, and any recommendations you might have along those lines, to any of you that would feel that you could offer some suggestions.

Mr. WETZEL. In Pennsylvania, 21 percent of our population is on the mental health roster, which equates to about 10,000 people, which means that I am responsible for the delivery of mental health services for more individuals than any other one entity in the State. And I think that is pretty consistent around the country.

Mr. MADDEN. It is.

Mr. WETZEL. And when you talk about a challenging group, a group that requires, first of all, good assessment, to include a full psych workup, which means resources and time.

Mr. FORBES. Do you feel you are getting that now?

Mr. WETZEL. Excuse me?

Mr. FORBES. Do you feel you are getting that kind of assessment?

Mr. WETZEL. Yeah, we do. And we have bolstered that. I mean, we have come up short on some of the back-end stuff, in other words, keeping folks healthy in general population. And what we have seen around the country, and Pennsylvania in particular, was people not getting sick from a mental health standpoint and then ending up in segregation. And so sometimes when you put mentally ill offenders in an intensive environment that prisons are, it is not the most therapeutic environment in all cases. So it is certainly a challenging thing.

So I think assessment at the front end, individualizing a treatment plan for each individual, splitting out the seriously mentally ill, which is anywhere between 7 and 10 percent of our population, and putting them on a completely separate track, so creating safe environments in general population.

And then for reentry for that group in particular, there has to be a lot of coordination between the prison system and the community infrastructure, to include case management and the treatment providers, because we have places in rural Pennsylvania where you are waiting 2 or 3 months to get an appointment with a psychiatrist. We are releasing a mentally ill offender with 30 days of medi-

cation. Oops. What happens in that 30 or 45 days that individual doesn't have medication, and it is not good. So I think it is a very challenging group.

I think that there needs to be as much attention on creating a community safety net so mentally ill folks are less likely to come to prison in the first place. People get concerned that corrections isn't going to adjust and be able to deal with mentally ill offenders. I am concerned that we are going to be able to adjust, and I am not sure that is the right thing from a public policy standpoint.

Mr. WARD. Congressman, I would say, too, one big issue, and this is the distinction between the Federal and the State level, is how do you define mental health problems? The Bureau of Justice Statistics says that 56 percent of all State inmates have a mental health problem; however, if you look at the definition of mental health problem on the Federal level, that number shrinks dramatically. I have a child, for example, on the autism spectrum. They would not be considered mental health. There are those out there who are coming back from war with post-traumatic stress syndrome. They would not be considered for these purposes mental health.

So I think how we define mental health is going to go a long way to how we prevent or give the proper treatment for those who have already been incarcerated or to prevent them from becoming incarcerated in the first place.

Mr. FORBES. Good. Anybody else?

Ms. LA VIGNE. What I would add to this conversation is the intersection between people with substance addiction and mental health problems, and those are often co-occurring disorders. And looking at the Federal system and the large volume of drug offenders who are in the system, that could be an issue that you will want to explore.

Mr. FORBES. Good. Well, thank you all so much for doing that.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. The gentleman yields back. The Chair recognizes himself to wrap up.

I think the best thing that we can do in the remaining days of this Congress is to reauthorize the Second Chance Act. That has been very useful. The gentleman from Virginia and I have been pushing this. It took a couple years to get it passed the first time, and I think that we ought to get it reauthorized and at minimum tweaked so that it is more effective.

What I am looking at in the whole continuum of somebody who gets involved in the criminal justice system is we start out with the arrest, then we have decisions that have to be made by the prosecutor and defense counsel, there is a trial, there is a conviction, then there is an investigation by a probation or parole department pre-sentencing to advise the court on what the proper sentence would be. Then there is incarceration and what goes on during incarceration and then what goes on after release. So there is a huge continuum of various groups of people, often with conflicting interests, who put their oar in the waters in dealing with the individual who has run afoul of the law.

My concern in dealing with this is that there is an awful lot of bureaucratic inertia or the bureaucracy trying to save their jobs by

saying that they have a larger casework than is really necessary, and it was a result of putting more notches on the report that goes up to the boss. We end up not treating those people as humans with special needs.

Now, some of them might require incarceration, particularly if they are involved in violent crime or drug trafficking. We have talked about mental health issues, and then we have talked about what goes on in prison and how they are supervised if they are released on probation.

How do we manage to lick the bureaucratic inertia that keep things the way they are because people have jobs and they want to keep their jobs and they are afraid of losing them if there are changes? And I would like to ask you, Secretary Wetzel, to start out with this, because you are the chief of a bunch of public employees in the Commonwealth of Pennsylvania who work in the corrections system there.

Mr. WETZEL. Yeah. I think it is really important to pay attention to the process, and I think oftentimes we set up processes that incentivize the wrong thing. So you alluded to a situation where someone really could benefit or an agency could really benefit by not necessarily making the best decision and control caseloads from that manner. So I think it is very important that we look what we incentivize and we look at how the system works.

And Pennsylvania is a place where we looked, and we had 2,400 inmates every month come up who were eligible for a parole hearing. The parole board had the capacity for 1,800 a month, right? So every month we have 600 offenders.

But here is the rub and here is what we were doing poorly. We weren't being deliberate about who got skipped. So if I was an individual who was not following any rules, didn't do any programs, was in trouble constantly and was in disciplinary, and you were an individual who has done everything we have asked you to do, we were equally likely to get skipped. If I get skipped, it costs me nothing, because I wasn't getting out anyhow. If you get skipped, it costs us from a standpoint that you were likely to get paroled, so it is going to cost us real money.

But beyond that, what message are we sending? If we are saying we are a justice system, you have done everything we have asked you to do, and now because of our bureaucracy or incompetence, however you want to describe it, you are not getting a hearing. So I think it is those kinds of things, really looking at how the system is structured and making sure it is structured in a manner that we are delivering what we need to do and making just smart, commonsense decisions, I think we can get where we need to get to.

Mr. SENSENBRENNER. Okay. I have 45 seconds left, so, Senator Ward, you are the incumbent policymaker. How can you answer my question?

Mr. WARD. One of the biggest areas I have noticed is, is a disparity in how court cases are actually counted. We had a situation in Alabama where one southern county counted each charge filed as a "caseload." And in my particular county, Shelby County, those five same charges that were filed down there are considered one case load for purposes of statistics. We have to make sure we have accurate data with regard to caseloads.

Second, he is absolutely right, the secretary is right. You have got to incentivize the idea of, how can I get your caseload down, how do we incentivize you to have a lower caseload? If we can come up with that solution, I think it encourages your judges and your prosecutors to pursue the alternative sentencing programs.

Mr. SENSENBRENNER. Thank you very much. My time has expired.

I would like to thank all of the witnesses. This has been a very interesting and fascinating hearing. And it is something that is really necessary in terms of not only trying to reduce our prison population, but also trying to reduce the recidivism rate. And I think there is a public interest in both, but the greater public interest is reducing the recidivism rate, because somebody who gets out and re-offends is going to cause a whole different group of victims. And if we want to protect those victims from being victimized, the thing to do is to convince the person who gets out not to continue in a life of crime.

Does the gentleman from Virginia have some unanimous consent requests?

Mr. SCOTT. Yes, Mr. Chairman. I ask unanimous consent that two op-eds sponsored by Mr. Madden be entered. One is a public safety op-ed which outlined many of the things he said today, but also a very articulate article supporting the Youth Promise Act, which I enjoyed reading since I am the chief sponsor of that legislation. Also a letter and report from the ACLU, "Ending Mass Incarceration: Charting a New Justice Reinvestment,"* and a report from the Justice Reinvestment Initiative, State assessment, from the Urban Institute.**

Mr. SENSENBRENNER. Without objection.

[The information referred to follows:]

*The material titled, "Ending Mass Incarceration, Charting a New Justice Reinvestment," is not reprinted in this hearing record but is on file with the Subcommittee and can be accessed at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCAQFjAA&url=http%3A%2F%2Fsentencingproject.org%2Fdoc%2Fpublications%2Fsen—Charting%2520a%2520New%2520Justice%2520Reinvestment.pdf&ei=bt1XVKavM4PasAS__rYH4Aw&usg=AFQjCNHfRk4zDod6rZWcwuLxW9TrCckr4Q&bvm=bv.78677474,d.cWc.

**The material titled, "Justice Reinvestment Initiative State Assessment Report," is not reprinted in this hearing record but is on file with the Subcommittee and can be accessed at www.urban.org/uploadedpdf/412994-Justice-Reinvestment-Initiative-State-Assessment-Report.pdf.

Opinion > Outlook

Madden, Levin: Public safety remains key focus of lawmakers

Program expansion targets prevention and controls costs

By Jerry Madden, and Marc Levin | July 24, 2013 | Updated: July 24, 2013 5:37pm

Most Texans know that our state is a national leader in creating jobs, but we have also become a model for creating public safety.

Our statewide crime rate has fallen back to levels not seen since the 1960s, and the just-concluded 83rd Legislature built on our success by adopting new measures that will make us safer while cutting costs.

The hallmark of the state's recent efforts has been to invest in programs that will stop the revolving door of prisons and put offenders on track to become law-abiding citizens who support their families and communities. The new chair and vice chair of the Texas House Corrections Committee, Tan Parker, R-Flower Mound, and James White, R-Woodville, respectively, were clearly committed to continuing our record of smart reform. Houston Democratic Sen. John Whitmire's leadership on criminal justice legislation and the corrections budget was exceptional.

House appropriations members like Reps. Jim Pitts, R-Waxahachie, and Sylvester Turner, D-Houston, continued the work to provide funding for drug treatment, intermediate sanctions to keep probationers and parolees in line, drug courts and other problem-solving courts, and probation and parole officers. These approaches reduce recidivism and the need for prisons. Most important, the budget expands availability of mental health programs, where great criminal justice savings can be obtained by treating people before they run afoul of the law.

Harris County is our state's largest county. With 2,000-3,000 mentally ill prisoners housed daily, it has the largest mental health population of any jail in our state. Under the leadership of Houston Republican Sen. Joan Huffman and others, the state authorized a pilot jail diversion program for low-level offenders, which promises to reduce the number of mentally ill offenders repeatedly incarcerated for minor offenses. Research shows that many of these individuals can be both law-abiding and productive when properly treated.

The Legislature also added important items to the Sunset Bill for the Texas Department of Criminal Justice. Lawmakers included a requirement for risk analysis and needs assessment of offenders. This will inform the individual supervision, treatment, incarceration and re-entry plans that match offenders to the programs that will have the greatest impact on their behavior. Another provision calls for measuring and reporting the effectiveness of re-entry programs.

The Legislature also expanded support for our highly effective specialty courts, authorizing prostitution-prevention courts based on our successful drug court model. This will divert many prostitutes from our jails and help set them on a law-abiding path.

Another longstanding concern of legislators has been the release of some inmates with no re-entry supervision. It is troubling that short-term, nonviolent (mostly drug) offenders – including some with a mental health diagnosis – have been released at the expiration of their sentences with no parole or probation supervision. The highest recidivism rates in the state are among this group of offenders. Senate Bill 1173 provides an option for split sentencing where a state jail term is followed by a term of probation. This approach will provide accountability and also require participation in treatment, which research predicts will reduce re-offending.

Finally, the Legislature passed legislation to reduce the number of students being ticketed or charged with low-

level crimes for doing things most of us would call "kids being kids," such as making too much noise in class. This will keep more students in school and allow law enforcement to focus on actual threats to campus safety.

Taken together, these new policies and programs maintain the course set in 2007 when the state expanded its community-based facilities and programs that placed Texas as the vanguard of reform. Since then, the number of prisoners in Texas has fallen by nearly 8,000 and the number of juveniles incarcerated in state facilities is down more than 65 percent. Texas closed one prison in 2011, and we expect two more prison closures in the coming months based on the new budget, which trims the prison operations line item by $97 million, the cost of two unneeded facilities. Meanwhile, the state's crime rate continues to fall, reaching its lowest level in 45 years.

We are proud to tell Texans that the 83rd Legislature kept our state on track as a model for how to improve public safety and control corrections costs. That's great news for Texas, and for the rest of the country.

By Jerry Madden, and Marc Levin

CONGRESS BLOG
THE HILL'S FORUM FOR LAWMAKERS AND POLICY PROFESSIONALS

July 01, 2014, 02:00 pm

Juvenile justice reform should focus on our communities

By Jerry Madden

In the United States today, we have a problem with our prisons. We incarcerate our people at nearly six times the rate of most other industrialized nations, and yet we have higher rates of crime.

While our crime rate has dropped substantially over the past 20 years, crime and our high level of incarceration continue to have massive social and economic costs to our nation. According to the Pew Center on the States, state and federal spending on corrections has grown 400 percent over the past 20 years, from about $12 billion to about $60 billion. Corrections spending is currently among the fastest growing line items in state budgets, and 1 in 8 full-time state government employees works in corrections. Clearly we have a long way to go still, but there are methods we can use to make our communities safer while reducing incarceration, with its massive associated costs.

The cheapest way to reduce crime is to prevent it. Evidence based prevention and intervention programs targeted at youth can stop the cycle of crime and violence before it begins. Providing youth with opportunities and hope will prevent crime, give them a much better future, and allow them to grow to their full potential in life. A bill that would support such evidence-based approaches, the bi-partisan Youth PROMISE Act, is currently before Congress as H.R. 1318, and S. 1307. This is a truly bi-partisan issue and one which evidence shows most Americans of all political persuasions support. Considerable scientific evidence shows that approaches like those included in the Youth PROMISE Act are able to reduce crime, create fewer criminals and provide much needed opportunity.

The Youth PROMISE Act works by engaging community stakeholders at the local level. Local elected leaders and local law enforcement will sit and work together with local teachers, students, parents, religious and nonprofit leaders, and representatives of the local health community, to choose a set of evidence based programs that are most appropriate for their community. Instead of one federally dictated program, the Youth PROMISE Act

allows for a bottom up approach where local community leaders, who know their local needs and resources, would be able to determine what gets funded in their community. Local communities should use evidence-based programs and make sure they get and monitor results to show if the program is meeting its promises. They also should be able to change directions if their chosen programs are not getting the desired results. By engaging community leaders in the process and achieving buy-in before the programs ever start, those programs will be better integrated into the community as a whole and be much more effective.

The Youth PROMISE Act also creates a means to help communities track the effectiveness of their programs and the savings they yield, as well as a national structure to help other communities draw on innovative and effective ideas. It provides a resource, not a mandate.

Similar reforms have already been happening at the state level. As the Chair of the House Corrections Committee in the Texas Legislature, I led an effort to overhaul Texas's Adult and Juvenile Corrections Systems. Between 2005 and 2010, we reduced the number of incarcerated youth from 4,700 to 1,500, saving the state about $200 Million. We did this with approaches like our Services To At-Risk Youth, or STAR, program, which provides family crisis intervention services, and our Community Youth Development program, which provides, mentoring, youth-employment, and career preparation programs. These programs can show tremendous returns. A Life Skills Training program, for example, has been calculated to yield $25.61 in benefits for every $1 invested.

And it's not just Texas. Other state governments of every political stripe have engaged in similar efforts, including Georgia, Kentucky, Maryland, Nevada, Pennsylvania, New York, and both Carolinas. We know that a prevention and early intervention approach can work to prevent crime. We know that a prevention and early intervention approach can save money. We know that we can put at-risk youth on a path to a better life. I call on Congress to pass the Youth PROMISE Act.

Madden is a former Texas legislator and was instrumental in revamping the states criminal and juvenile justice systems.

Sentencing and Corrections Reforms in Justice Reinvestment States

		2014		2013				2012						2011					2010			2009		2008				2007			
	Policy Reform	ID	MS	OR	SD	WV	KS	MO	DE	GA	PA	HI	OK	AR	KY	AL	LA	NC	OH	SC	NH	MI	IL	WI	AZ	PA	CT	RI	VT	KS	NV	TX	Total
Sentencing/Pretrial	Reclassify/redefine drug offenses		✔	✔	✔					✔				✔	✔			✔	✔													8
	Reclassify/redefine property offenses		✔	✔	✔					✔				✔					✔	✔												7
	Establish/expand presumptive probation for certain offenses		✔	✔	✔							✔			✔				✔											✔		7
	Revise sentencing enhancements		✔							✔					✔			✔		✔												5
	Revise mandatory minimums			✔						✔		✔					✔			✔												5
	Reduce crack-powder cocaine disparity																		✔	✔												2
	Revise sentencing guidelines/establish sentencing commission																	✔					✔				✔					3
	Improve pretrial release systems					✔			✔			✔			✔																	4
	Establish presentence assessment					✔			✔	✔			✔		✔														✔				6
	Revise drug-free school zone														✔					✔													2
	Authorize risk-reduction sentencing																	✔	✔							✔							3
Release	Revise parole hearing/decision/eligibility standards	✔	✔				✔					✔		✔	✔		✔			✔	✔	✔					✔	✔					12
	Expand good/earned-time prison credits /re-entry leave		✔	✔			✔		✔	✔							✔	✔	✔	✔								✔		✔	✔		12
	Establish/expand geriatric or medical parole		✔											✔			✔			✔		✔											5
Community Corrections	Establish earned discharge (probation/parole)	✔	✔	✔	✔		✔	✔	✔					✔	✔					✔	✔				✔								12
	Authorize performance incentive funding			✔							✔			✔	✔				✔	✔			✔							✔			8
	Authorize administrative jail sanctions	✔	✔			✔	✔	✔						✔	✔		✔	✔		✔	✔												11
	Authorize graduated responses for violations	✔	✔		✔	✔	✔		✔	✔	✔			✔	✔		✔	✔		✔										✔	✔		15
	Cap revocation time	✔	✔				✔	✔		✔	✔	✔	✔			✔		✔															10
	Establish/improve electronic monitoring		✔			✔				✔				✔	✔		✔												✔				7
	Establish mandatory reentry supervision					✔	✔						✔		✔			✔	✔	✔	✔												8
	Require/improve risk/needs assessment	✔	✔	✔	✔	✔			✔	✔		✔		✔	✔		✔	✔	✔	✔		✔	✔					✔					17
	Require evidence-based practices				✔				✔	✔	✔			✔	✔				✔			✔	✔					✔			✔		11
	Reform/pilot specialty courts (HOPE, drug courts, etc.)		✔	✔	✔	✔				✔				✔	✔	✔	✔												✔				9
	Reduce probation terms											✔																	✔				2
	Improve interventions, such as sub abuse/mental health/CBT	✔			✔	✔	✔		✔									✔	✔			✔		✔		✔			✔	✔	✔		14
Sustainability	Require fiscal impact statements		✔	✔	✔										✔					✔			✔										6
	Establish leadership/board qualification requirements	✔	✔														✔			✔													4
	Require data collection/performance measurement	✔	✔	✔	✔	✔	✔			✔		✔	✔	✔	✔		✔	✔	✔	✔		✔		✔									17
	Establish measures to streamline/improve efficiency of system	✔			✔	✔				✔	✔			✔	✔		✔		✔			✔				✔	✔						12
	Improve restitution/victim notification systems	✔	✔		✔						✔	✔								✔													6
	Establish oversight council	✔	✔	✔	✔			✔		✔										✔													7

Notes: The Justice Reinvestment Initiative is supported by The Pew Charitable Trusts and the U.S. Department of Justice, Bureau of Justice Assistance. Intensive technical assistance to the states is provided by Pew, the Council of State Governments Justice Center, the Vera Institute of Justice, and other partners. Reforms include those enacted in legislation and by executive or court order. Reforms in GA were enacted in 2012 and 2013; LA reforms in 2011 and 2012; CT reforms in 2004 and 2008. Policy reforms in each state were developed by bipartisan, inter-branch working groups and based on analyses of the states' specific criminal justice challenges. The number of policy reforms in a state does not correspond with the impact on prison populations or costs. For more details about policies, impacts, and reinvestments, see individual state pages at www.pewstates.org/publicsafety.

Updated May 2014

Mr. SENSENBRENNER. If there is no further business to come before the Subcommittee, without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:26 a.m., the Subcommittee was adjourned.]

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